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No. 07-1015

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2008

JOHN D. ASHCROFT, FORMER ATTORNEY GENERAL OF THE UNITED STATES, AND ROBERT MUELLER, DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION,

Petitioners,

v.

JAVAID IQBAL, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR *AMICI CURIAE* IBRAHIM TURKMEN, ASIF-UR-REHMAN SAFFI, YASSER EBRAHIM, HANY IBRAHIM, SHAKIR BALOCH, AKHIL SACHDEVA AND ASHRAF IBRAHIM IN SUPPORT OF RESPONDENTS

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MOTION FOR LEAVE TO FILE BRIEF FOR *AMICI CURIAE* IBRAHIM TURKMEN, ASIF-UR-REHMAN SAFFI, YASSER EBRAHIM, HANY IBRAHIM, SHAKIR BALOCH, AKHIL SACHDEVA AND ASHRAF IBRAHIM IN SUPPORT OF RESPONDENT JAVAID IQBAL

Ibrahim Turkmen, Asif-Ur-Rehman Saffi, Yasser Ebrahim, Hany Ibrahim, Shakir Baloch, Akhil Sachdeva and Ashraf Ibrahim hereby move this Court, pursuant to Rule 37.3, for leave to file the attached brief *amicus curiae* in support of respondent Javaid Iqbal. The petitioners and respondent Iqbal have consented to the filing of this brief, along with respondents Kenneth Maxwell, David Rardin and Dennis Hasty, but respondents Michael Rolince, Katherine Hawk Sawyer, and Michael Cooksey have declined to consent. Correspondence reflecting the consents has been lodged with the Clerk.

Amici are plaintiffs in an action entitled *Turkmen, et al. v. Ashcroft, et al.* pending in the United States District Court for the Eastern District of New York (02 CV 2307 (JG) (SMG)), asserting claims against petitioners and others similar to the claims in the instant case, and consolidated with the instant case for discovery. Appeals in *Turkmen* by petitioners and others to the United States Court of Appeals for the Second Circuit from an order of the District Court denying in part their motion to dismiss the complaint were argued in February, 2008, and are now awaiting decision. Petitioners make many of the same arguments on their appeals in *Turkmen* as they do before this Court.

Like respondent Iqbal, *amici* are non-citizens arrested following September 11, 2001, and detained as "of interest" to the FBI's investigation of the terrorist attacks. All were eventually cleared of any connection to terrorism, and removed from the United States under the Immigration and Naturalization Act. The only *amicus* charged with or convicted of any criminal act is Shakir Baloch, who pled guilty to possession of false documents.

Like respondent Iqbal, *amici* believe (and allege in *Turkmen*) that while in custody they were subjected to punitive conditions of confinement on the basis of their race and religion. Like respondent, *amici* allege that their treatment was part of a nationwide pattern, described in reports of the Office of the Inspector General of the Department of Justice, directed by petitioners Ashcroft and Mueller.

In this brief, *amici* offer supplementary arguments against imposing a special pleading standard for claims against "high-ranking officials." They also present to the Court material, obtained during discovery in their action and Iqbal's of parties other than petitioners, which illustrates information that has already appeared concerning petitioners' role in this nationwide pattern of conduct, as well as avenues for further discovery of that role. They submit that this material shows that an injustice would be done if Iqbal's claims were dismissed without an opportunity to take the limited discovery contemplated by the Second Circuit's decision.

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INTEREST OF THE *AMICI CURIAE*

The interest of the *amici curiae* is set forth in the foregoing Motion for Leave to File.[1]

SUMMARY OF THE ARGUMENT

On this appeal, petitioners wash their hands of the discriminatory treatment of respondent, *amici*, and hundreds of other Muslim non-citizens, maintaining that if petitioners' subordinates acted inappropriately, this Court should assume petitioners were not involved. In so doing, petitioners urge the Court to require plaintiffs asserting racial and religious discrimination claims against "high-ranking officials" to detail the specific methods and tools of governmental discrimination: where meetings occurred; who spoke; and what was said, to adequately plead a case. Respondent Iqbal did not have access to such detail when this case was filed. But detail is emerging now. *Amici* share with the Court the fruits of discovery in this case and *Turkmen*, to illustrate how it is precisely claims against "high-ranking officials" which require discovery to uncover the details.

Petitioners maintain that the protection of a vaguely defined class of "high-ranking officials" from "frivolous lawsuits" requires a special rule available to no other defendant, or potential defendant. Beyond the sanctions of Rule 11; beyond demands for

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[1] No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae*, its members, or its counsel made a monetary contribution to its preparation or submission.

particulars; beyond motions for summary judgment; beyond even the qualified immunity available in appropriate circumstances to any government employee—beyond all this, we are told, "high-ranking officials" require the special protection of a special rule of pleading.

This Court has already rejected that argument, raised by dissenting Justices Black and Blackmun in *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and subsequent history has not vindicated the dissenters' fears. Petitioners rest their case on a single example, former Attorney General Edward Levi (Pet. Br. at 40-41). In fact, petitioners' own source for General Levi's experience demonstrates the minimal burden imposed by *Bivens*: all of the suits were resolved without Attorney General Levi having to testify, even in a deposition, and the Justice Department thought it unnecessary even to tell the Attorney General about most of the suits. *See below, at* 20-23.

The present case makes an odd vehicle for petitioners' renewal of this argument. At issue here is not a small or local operation, in which it is plausible to suppose the heads of the Department of Justice and the FBI had no role, but a massive, nationwide program in which petitioners played a prominent, public part. Press conferences and public speeches by petitioners regarding the 9/11 investigation as it proceeded are noted in the April 2003 report of the Justice Department's Office of the

Inspector General.[2] Meetings and conversations of other senior Department of Justice and FBI officials are scattered throughout that report; to suppose that all of this activity took place without the participation of petitioners strains the imagination.[3]

But in seeking to discover what senior officials were responsible for their treatment, respondent and *amici* face the same problem as anyone investigating a large, complex operation: the underlings may be easily identified, but proceeding up the chain of command requires diligence and patience. If the details of higher-ups' conduct had to be set out at the beginning of an investigation, a wide variety of investigations would be sharply curtailed.

Here, discovery already conducted in the district court, limited as it has been to discovery from non-parties and parties not claiming qualified immunity, further indicates the involvement of petitioners in the discriminatory arrest and detention of 9/11 detainees, which additional discovery is needed to clarify. As set forth below, an Immigration and Naturalization Service manual required detailed daily reports to the Attorney General, and states that the Attorney General used those reports to brief other senior officials; but the reports themselves (with the exception of one sample

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[2] Office of the Inspector General, U.S. Department of Justice, *The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks*, at 4 n.8, 11 n.20, 12-13 (April 2003) <http://www.usdoj.gov/oig/special/0306/full.pdf> (*OIG Report*).

[3] See, for example, *id.*, at 12-13, 15, 19-20, 37-40, 55-57, 62, 66, 75, 81, 106.

included in the manual) have not been produced. *See below*, at 9-12. Documents from the FBI files of *amici* indicate that the tips which led to their arrest and classification as "of interest" singled them out by race and religion; this was not merely an occasional occurrence but the result of a policy to detain without vetting individuals encountered in the course of an investigation driven by 96,000 public tips, almost all of which evidently proved worthless to the investigation.[4] *See below*, at 7-8. More investigation is required to determine whether petitioners directed that Muslim and Arab men be treated as "of interest" to the terrorism investigation without regard to any evidence connecting then to terrorism, or merely acquiesced to their subordinates' biased investigation. *See below*, at 14-20.

These inquiries are not frivolous; the *OIG Report* documents the serious issues raised by the government's treatment of 9/11 detainees like Iqbal and *amici*. And with all due respect to petitioners, whose public service as "officials charged with protecting our nation" *amici* recognize: their public service only entitles them to immunity provided they acted reasonably. This Court rejected absolute immunity for the Attorney General, along with other executive officials short of the President, in *Mitchell v. Forsyth*, 472 U.S. 511 (1985). It should not now use a special pleading rule to create an effective equivalent to absolute immunity by making it impossible to plead a claim against "high-ranking officials" without the aid of discovery, and impossible

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[4] *See OIG Report*, at 12 (96,000 tips received in the first week).

to attain an opportunity to take discovery without inside knowledge of detailed workings at the highest levels of government at the time of filing a complaint.

ARGUMENT

I. Respondent Adequately Alleges Petitioners' Involvement in Classifying *Amici* and Respondent Based on Race and Religion.

There is ample ground to suspect racial and religious discrimination in the treatment of respondent, *amici*, and other 9/11 detainees; the District Court and Court of Appeals refused to dismiss respondent's equal protection claim, and that action is not challenged here. Petitioners say only that they should not be held to account for any discrimination—not because there was no discrimination, or even because they had no role in such discrimination, but because respondent's complaint fails to show that petitioners' involvement is "plausible."

Petitioners argue that the context of this case—"the government's response to an unprecedented national-security crisis . . . [in which the] former Attorney General and current Director of the FBI . . . headed the largest investigation in American history"—demands dismissal prior to discovery because respondent has not properly alleged the "particular steps" petitioners took to approve, condone or ratify the discriminatory policy, including when, where, and with whom the actions occurred. Pet. Br. at 13, 39. They dismiss the circumstantial evidence that race and religion were the predominant factors in 9/11 arrests, reasoning:

> [I]f petitioners were aware that a high proportion of Arab or Muslim men were among the detainees "of high interest," that alone would not have given them cause to believe that the list reflected racial or religious discrimination—any more than would a predominance of Irish suspects in an investigation of the IRA.

Pet. Br. at 35. The analogy is interesting; but it requires development. If 762 Irishmen were arrested in such an investigation; if almost all were arrested on the basis of tips from the public, in circumstances in which a general public hostility to the Irish might be feared; if none of the 762 proved to have an actual connection to the IRA; would it then be implausible to suspect that those running the investigation were infected by bias? And would it be appropriate to shield them from any liability for bias, unless detailed evidence of bias could be put forward at the very beginning of a lawsuit?

Petitioners rely heavily on an assumption that, given the size of the 9/11 investigation, "there is every reason to assume that the Attorney General and the Director of the FBI did *not* personally do more than . . . approve a general policy of using highly restrictive confinement for any detainee 'of high interest'" to the terrorism investigation. Pet. Br. at 36-37 (emphasis in the original). Discovery conducted thus far, however, tells a different story.

Amici agree with respondent that Iqbal's complaint is adequately pled under settled Supreme Court precedent. In the context of this case—a critical investigation conceived and implemented at the very highest levels of government—no additional

detail is necessary to buttress the plausibility of respondent's allegations.

But as it happens, the detail petitioners demand, though unavailable to respondent prior to discovery, is now emerging. Through the usual means, *amici* have uncovered significant factual material regarding the *who, what, where* and *when* of petitioners' personal involvement in the discriminatory actions challenged by respondent. *Amici* share this material with the Court to illuminate the probable result of the new rule urged by petitioners: the precipitous dismissal of a significant and meritorious challenge to illegal and discriminatory action by high-ranking government officials for failure to plead details that can only be uncovered through the process of discovery detailed in the Federal Rules.

A. *Amici,* Respondent, and Other 9/11 Detainees Were Classified Based on Their Race and Religion.

As a threshold matter, it is clear that the 9/11 detentions involved racial and religious profiling. The *OIG Report* recounts how the FBI's watch list of "more than 100 names" was supplemented within a week by "more than 96,000 tips or potential leads from the public." *OIG Report* at 11-12. In the resulting investigation the government arrested and detained thousands of Muslims (Complaint ¶ 47; Pet. App. 164a) from Middle Eastern or South Asian countries (*OIG Report* at 21). The *OIG Report* illustrates the quality of the tips: a store is "operated by numerous Middle Eastern men . . . . Too many people to run a small store"; an alien who "would like to learn how to fly an airplane"; Middle

Eastern men with "pictures of the World Trade Center and other famous buildings." *Id.* at 16-17. Race is conspicuous; and facts plausibly suggesting a connection to terrorism are absent.

The implications of these facts regarding the role of pervasive discrimination in the treatment of respondent, *amici*, and the other 9/11 detainees are underscored by documentation, produced by the United States in *Turkmen,* of the tips which led to *amici's* treatment as "of interest." *Amici* Hany Ibrahim and Yasser Ebrahim were reported to authorities as "Middle Eastern Males . . . renting a mailbox and possibly sending out large quantities of money." Affirmation of Michael Winger made October 30, 2008, ¶ 3, Exh. A; *see* attached Appendix at 1a (hereafter, the affirmation and its exhibits are referred to by the page of the appendix, in the form _a). *Amicus* Ashraf Ibrahim was described as one of "three males, who appeared to be Arabs," who sought to purchase a used truck to carry water and gave "vague" answers to questions about what kind of containers the water would be carried in and whom they would deliver it to. 4a. *Amicus* Baloch was "a male, possibly Arab," with a fake Social Security card. 7a. *Amicus* Sachdeva was said to have been speaking in Arabic (although in fact he is a Hindu from India), and to have talked about "flying and flight simulators." 8a. *Amicus* Saffi, a Pakistani by birth, appears to have been arrested solely because he had been refused admission to Canada. 12a. There is nothing to show a reason for suspicion of *amicus* Turkmen in the FBI file produced by the United States except a tip concerning three other Turkish men, apparently based on their being Turkish. 14a-16a.

B. Discovery Supports Petitioners' Awareness of the Biased Nature of the 9/11 Sweeps.

Petitioners disavow knowledge of or involvement in the biased nature of the 9/11 sweeps, (Pet. Br. at 5), but discovery paints a different picture. According to a document produced by the United States in this action and *Turkmen*, the Commissioner of the INS submitted a daily "Attorney General Report" to petitioner Ashcroft, detailing information relevant to the 9/11 investigation.[5] Among other relevant statistics, the report details the number of aliens taken into custody each day along with the "number of aliens taken into custody during joint field interviews *after* which it is determined there is no nexus to the investigation." 20a. According to the deposition testimony of Walter Cadman, the Director of the National Security Unit ("NSU") of the INS, the latter figure probably represented aliens who were arrested in connection to the terrorism investigation, and thus treated as terrorist suspects, for whom it was eventually determined the FBI lacked any investigative

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[5] One such Attorney General Report is attached in the Appendix, 20a-24a. The Report is excerpted from the "INS Headquarters Standard Operating Procedure," produced by the United States (to be lodged with the Court pursuant to Rule 32) ("INS SOP"), at INS NSU SOP 09232001 000017-19, marked for lodging as L119-21, see also INS NSU SOP 09232001 000010, marked for lodging as L112.

interest.[6] Mr. Cadman distinguished such aliens, who were "swept up" in the investigation as "collateral arrests," from those in whom the FBI originally had a genuine investigative interest, but later cleared of any connection to terrorism.[7]

Each Attorney General Report also includes a "notes" section that calls for a narration of "events relevant to the criminal investigation and the mission of the INS," to be used by the Commissioner and the Attorney General to prepare for daily briefings with the National Security Council and the President.[8] The only Attorney General Report produced thus far recounts that 48 Muslims were held for questioning after they exited a religious service next door to the site of a search warrant operation. 22a. There does not appear to have been any basis to question the individuals other than their appearance and attendance at a religious service.

Amici have reason to believe that the balance of reports will provide even more compelling information. In an interview with the OIG, the NSU personnel responsible for providing information for the "notes" section stated that the Attorney General Reports "showed the details of all aliens in INS custody who had a possible 'nexus to terrorism.'"[9]

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[6] Transcript of the Deposition of Walter Cadman (to be lodged with the Court pursuant to Rule 32), hereafter "Cadman Dep." at 122-23, marked for lodging as L280-81.

[7] Id.

[8] INS SOP at INS NSU SOP 09232001 000015-16, marked for lodging as L117-18.

[9] OIG "Record of Interview" with Kinsman Corthell, Shawn Ebbley, Mark LaMonte, and Louis Nardi, produced by the (...continued)

Along these lines, the manual instructs that the "Notes" section of the Attorney General Report is to be drawn from Significant Incident Reports, or "SIRs" and other reports received by the NSU and that the narrative should "err on the side of inclusion." 19a. SIRs and reports received by the NSU recount the dubious tips that led to each alien's arrest along with any subsequent FBI investigation. For example, the SIR for *amicus* Akhil Sachdeva indicates that Sachdeva was encountered during a field operation predicated upon a WTC lead, and states that FBI interest in Sachdeva is currently "undetermined." 25a.

If the Attorney General Reports contained such details of the tips and investigation, then petitioner Ashcroft had a clear indication that the FBI had no non-discriminatory basis for suspecting *amici,* respondent, and others of ties to terrorism. While it is not yet clear whether petitioner Mueller also received detailed reports, in his interview with the OIG Mueller acknowledged being aware that a number of people were detained by the INS because of a "pass[ing] assoc[iation] w[ith] Penttbom."[10] This evidence was unavailable to respondent prior to discovery, and indeed, it appears that the balance of the Attorney General Reports may have been

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United States (to be lodged with the Court pursuant to Rule 32) at OIG ROI Corthell Ebbley LaMonte Nardi 04172002 000005, marked for lodging as L97.

[10] OIG Notes of Interview with FBI Director Robert Mueller, produced by the United States (to be lodged with the Court pursuant to Rule 32) at Mueller000004, marked for lodging as L10.

destroyed.[11] Thus only deposition testimony may uncover their nature.

It appears that petitioners were also provided lists of the 9/11 detainees that underscored the paucity of evidence connecting many to terrorism. Michael Pearson, INS Executive Associate Commissioner for Field Operations, testified at his deposition:

> There was a lot of things going on after September 11 and a lot of high level involvement. I mean commissioner dealing with Attorney General's office, I'm sure the Attorney General's office working with the White House and all that and working with the FBI.
>
> So the information we provided, the significant interest list[12] went over to the department daily. In fact, any time we had a significant update it would go over to it. And because I was presenting it to higher headquarters, I made sure that the chief of staff, the deputy commissioner and the commis-

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[11] The OIG does not appear to have located the reports despite notes indicating their plan to do so, and counsel for the United States has thus far also been unsuccessful in locating the reports despite *amici's* request.

[12] In subsequent testimony Pearson said that by "significant interest list" he meant what was usually termed the "special interest list." Transcript of Deposition of Michael Pearson, (to be lodged with the Court pursuant to Rule 32), at 136, marked for lodging as L524.

> sioner were aware of it and they were intimately aware.[13]

The "special interest list" provides each suspect's name, detention location, and a narrative in which the FBI's interest in and investigation of each detainee is noted.[14] Where there is any information to tie the detainee to a known terrorist, or to the known characteristics of the hijackers, that information was also noted. *See e.g.* 27a. For example, the narrative summary for alien "A"[15] indicates that he was the co-insurer on an auto insurance policy with one of the hijackers, that he accompanied the hijacker to flight school, and that he served as the hijacker's interpreter. 27a. Similarly, the narrative summary for alien "B" states that he was an acquaintance of two of the hijackers. 29a.

For *amici* and respondent, however, no such ties exist, and thus no information appears on the list to explain the FBI's "interest" in each individual. The entry for Shakir Baloch, for example, states only that he was in possession of a forged license, and will be prosecuted for fraudulent documents and INS reentry. 31a-32a. The entry for Asif Saffi provides no information other than the assignment and reassignment of his case to various agents. 35a.

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[13] Id. at 135-36, marked for lodging as L523-24.

[14] Excerpts from the "Special Interest List" are attached in the Appendix; the entire list produced by the United States is to be lodged with the Court pursuant to Rule 32, marked for lodging as L132-57.

[15] Identifying information regarding detainees other than *amici* has been redacted.

Finally, the entry for respondent Iqbal indicates that he is being charged criminally for making false statements. 33a. The list, dated 5/13/02, shows that Iqbal remained in custody at Metropolitan Detention Center for months despite an apparent lack of activity on his case after January 31, 2002.[16]

C. More Discovery Is Necessary to Determine the Extent to Which Petitioners Directed that the Sweeps Be Carried Out in a Biased Manner.

Discovery in the *Turkmen* matter has already uncovered some evidence to suggest that petitioners were not only aware of the detainees' lack of connections to terrorism, but also ordered that Muslim and Arab men without true FBI interest be treated as "of interest" to the investigation, and be placed in extraordinarily restrictive conditions of confinement.[17]

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[16] "Special Interest List," produced by the United States (to be lodged with the Court pursuant to Rule 32) at FBI Supplemental Release 000168, marked for lodging as L149.

[17] Besides the "of interest" designations, two other programs instituted by petitioner Ashcroft also singled-out non-citizens based on religion and race. *See* John Ashcroft, Memorandum to United States Attorneys and Members of the Anti-Terrorism Task Forces on Interviews Regarding International Terrorism (November 9, 2001), <http://www.usdoj.gov/ag/readingroom/terrorism1.htm>; U.S. General Accounting Office, *Homeland Security: Justice Department's Project to Interview Aliens after September 11, 2001* at 7 (Apr. 11, 2003), <http://www.gao.gov/new.items/do3459.pdf> (program to interview selected individuals from fifteen predominantly Muslim countries regarding the terrorist attacks); John Ashcroft, "Prepared Remarks on the National Security Entry-Exit Registration (...continued)

First, a Supervisory Special Agent detailed to the FBI's Office of General Counsel told the OIG that Ashcroft ordered specific individuals placed on the FBI's watchlist, including five Yemenis who lacked the required connection to the 9/11 hijackers.[18]

Second, petitioner Ashcroft may have ordered the wholesale inclusion of hundreds of 9/11 detainees from New York onto the national custody list. In New York, every individual arrested in connection to a PENTTBOM lead was held as a 9/11 detainee, yet many of these names were initially not sent to INS headquarters to be included on the national custody list. *OIG Report* at 53. In October of 2001, INS officials at Headquarters learned of approximately 300 individuals being held in New York as 9/11 detainees. *Id.* at 53-54. At meetings to discuss merging the New York and national custody lists, several individuals expressed concerns that the New York list had not been properly vetted, and that the FBI could not affirmatively state any interest in many of the detainees. *Id.* Nevertheless, Stuart

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System" (June 6, 2002), <http://www.usdoj.gov/archive/ag/speeches/2002/060502agpreparedremarks.htm>; *see also* Department of Justice, immigration and Naturalization Service, "Registration of Certain Nonimmigrant Aliens from Designated Countries," 67 Fed. Reg. 67,766 (Nov. 6, 2002); 67 Fed. Reg. 70,526 (Nov. 22, 2002); 67 Fed. Reg. 77,642 (Dec. 18, 2002); 68 Fed. Reg. 2363 (Jan. 16, 2003) (program requiring males over the age of sixteen from twenty-four predominantly Muslim countries plus North Korea to report to immigration offices or face arrest, detention, or deportation).

[18] OIG notes of interview with Supervisory Special Agent (Name Redacted), produced by the United States (to be lodged with the Court pursuant to Rule 32) at 000007, marked for lodging as L82.

Levey, the Associate Deputy Attorney General for immigration, ordered that everyone from the New York list be incorporated into the national list. *Id.* at 55-56. Walter Cadman, one of the meeting attendees, testified at his deposition that he understood Mr. Levey to be making this decision with the Attorney General's authority.[19]

Along with directing the race-based targeting of *amici* and respondent, there is also reason to believe that petitioners directed, or at least knew of, the policy of subjecting these dubiously identified "of interest" detainees to extremely restrictive conditions of confinement.

First, petitioners' subordinates and colleagues spoke to the OIG of petitioners' personal involvement. Dan Levin, Director Mueller's chief of staff, told the OIG of a "continuous" meeting the first few months after 9/11 involving the Director and the Attorney General, among others.[20] According to Principal Associate Deputy Attorney general Christopher Wray, petitioner Ashcroft and a small group mapped out ways to exert "maximum pressure" on the terrorism suspects.[21] This included delaying their immigration hearings and restricting their ability to contact the outside world.[22] "Let's not

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[19] Cadman Dep. at 199-200, marked for lodging as L357-58.

[20] OIG Notes of Interview with Dan Levin, produced by the United States (to be lodged with the Court pursuant to Rule 32) at Levin000006, marked for lodging as L47.

[21] OIG Notes of Interview with Chris Wray, produced by the United States (to be lodged with the Court pursuant to Rule 32) at 1, marked for lodging as L19.

[22] Id.

make it so they can get Johnnie Cochran on the phone," the OIG notes report.[23] Consistent with these reports, INS Commissioner Ziglar told the OIG that he discussed the "roundup" and the "whole process of interviewing and incarcerating out of status individuals" at a meeting with the Attorney General.[24] And petitioner Ashcroft told the OIG that he had been involved in frequent discussion regarding the detainees' need for counsel, and was aware of at least some of the department's attempts to address that issue.[25]

Second, the OIG interviews make clear the extent to which petitioners' high-level subordinates were involved in decisions regarding detention conditions. Ashcroft's deputy chief of staff, David Israelite, recalled brainstorming about possible ways to "be aggressive,"[26] and the Deputy Attorney General's chief of staff David Laufman recalled discussions early on about conditions of confine-

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[23] Id.

[24] Email from Catherine Sheehan to Tamara Kessler re: Ziglar, dated Sep. 24, 2002, produced by the United States (to be lodged with the Court pursuant to Rule 32), at Ziglar000015, marked for lodging as L101.

[25] OIG "Memorandum of Investigation" re: Interview with Attorney General John Ashcroft, produced by the United States (to be lodged with the Court pursuant to Rule 32) at Ashcroft000009, marked for lodging as L5.

[26] OIG Notes of Interview with David Israelite, produced by the United States (to be lodged with the Court pursuant to Rule 32), hereafter "Israelite interview," at Israelite000005, marked for lodging as L31.

ment.[27] Similarly, Mueller's chief of staff, Dan Levin, states that he "is sure" that how and where to hold the detainees was discussed and he believes that limitations on communication and access to counsel may also have been discussed.[28]

Petitioners' personal involvement with the details of detention and treatment is not surprising in the context of the 9/11 investigation. Control over all aspects of the investigation was tightly centralized out of Washington, featuring close involvement of some of the highest ranking federal officials. The FBI's high-security Strategic Information and Operations Center, also known as SIOC, located at FBI Headquarters, became the center of the investigation. *OIG Report* at 11. Based out of SIOC, federal law enforcement officials quickly identified the hijackers, pursued leads related to them, and began developing a watch list of potential hijackers and other individuals who may have been planning terrorist attacks against America. *Id.* at 11.

Petitioner Ashcroft, en route to Milwaukee at the time of the attacks, hurriedly returned to Washington and arrived at SIOC by the late morning.[29] Petitioner Mueller was already there.[30] There began the "continuous" meeting.

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[27] OIG Notes of Interview with David Laufman, produced by the United States (to be lodged with the Court pursuant to Rule 32) at Laufman000006, marked for lodging as L39.

[28] OIG Notes of Interview with Dan Levin, produced by the United States (to be lodged with the Court pursuant to Rule 32) at 2 & Levin000007, marked for lodging as L43 & L48.

[29] Steven Brill, *After: How America Confronted the September 12 Era*, at 14 (2003).

FBI Headquarters tightly controlled all decision making regarding the 9/11 detainees. FBI Headquarters required that the results of all detainee interviews be provided to SIOC. 32a-33a. FBI Headquarters exercised final say on whether a detainee was "of interest" to the 9/11 investigation and cautioned that it was "essential that the decision as to whether or not to seek continued detention is made centrally by headquarters rather than by individual field offices." *Id.* FBI Headquarters coordinated CIA names checks on individual detainees, *OIG Report* at 50, and by October 2001, FBI Headquarters performed the entire investigation and clearance process of the detainees. *OIG Report* at 48, n.42.

Details such as housing determinations and conditions, typically left to lower level officials in the INS and BOP, were dictated from FBI Headquarters and high levels of the Justice Department. FBI Headquarters requested that individual detainees be moved or placed in restrictive housing.[31] And DOJ personnel, including David Laufman, chief of staff to the Deputy Attorney General, and Principal Associate Deputy Attorney General Christopher Wray called Kathy Hawk Sawyer, director of the Bureau of Prisons, soon after 9/11 with concerns about detainees' ability to communicate with other inmates and the public. *OIG Report* at 112. Hawk Sawyer described the restrictions in place for the 9/11 detainees and Laufman and Wray instructed her "not [to] be in a hurry" to provide 9/11 detainees

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[30] Id.

[31] Pearson Dep. at 113, marked for lodging as L501

with access to communications, including legal or social calls or visits, so that the FBI would have a chance to "do their job."[32] *OIG Report* at 113.

Michael Cooksey, the BOP's Assistant Director for Correctional Programs, confirmed that instructions and guidance on handling detainees came from the Department [of Justice] and the FBI and that the decision to utilize the Special Housing Unit to hold 9/11 detainees was made in meetings with the DOJ.[33]

The factual material described above does not prove petitioners' liability—but it does provide the detail that petitioners would demand. At this point in discovery—and even without discovery of petitioners—*amici* can describe much of the *who, when, where* and *how* of petitioners' involvement in the discriminatory classification alleged by respondent. But to demand this level of factual detail prior to discovery is to erect a *de facto* rule of absolute immunity for "high-ranking officials," in contradiction to over three decades of Supreme Court precedent.

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[32] OIG "Memorandum of Investigation" re: interview with Kathy Hawk Sawyer, produced by the United States (to be lodged with the Court pursuant to Rule 32) at 2-3, marked for lodging as L57-58.

[33] OIG Notes of Interview with Michael Cooksey (typed), produced by the United States (to be lodged with the Court pursuant to Rule 32) at 1, marked for lodging as L61, and OIG Notes of Interview with Michael Cooksey (handwritten), produced by the United States (to be lodged with the Court pursuant to Rule 32) at 3-4, marked for lodging as L66-67.

II. Permitting This Case to Proceed to Discovery Would Not Open the Floodgates to Frivolous Lawsuits.

To support their case for a heightened pleading standard, petitioners raise the specter of a flood of "frivolous lawsuits" haunting "high-ranking officials" even after they leave office. *See, e.g.*, Pet. Br. at 19, 40-41. This Court has already rejected that argument.

The same concern was raised by Justices Black and Blackmun in their dissents in *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), suggesting that this Court's recognition of a right of action against federal officials in their personal capacities for violations of an individual's constitutional rights would trigger an "avalanche" of litigation. *Id.* at 430 (Blackmun, J. dissenting). Justice Black wrote that "[w]e sit at the top of a judicial system nearing the point of collapse." *Id.* at 429. He feared that an onslaught of "frivolous" lawsuits brought about by *Bivens* would press the system past the tipping point; moreover, such actions would "tend to stultify proper law enforcement and . . . make the day's labor for the honest and conscientious officer even more onerous." *Id.* at 430.

The majority rejected that argument. *Id.* at 391 n.4. Justice Harlan observed in his concurrence:

> There is, however, something ultimately self-defeating about this argument. For if, as the Government contends, damages will rarely be realized by plaintiffs in these cases . . . then I am not ready to assume that there will be a significant

> increase in the expenditure of judicial resources on these claims . . . .

Id. at 410. "[T]he possibility of 'frivolous' claims" is simply insufficient to "warrant[] closing the courthouse doors to people in [respondent's] situation"—particularly when doing so would effectively insulate those most directly charged with supporting and defending the Constitution from the consequences of violating its principles. *Id.*

As Justice Harlan anticipated, the justice system has effectively found "other ways . . . of coping with frivolous lawsuits." *Id.* The reality is that very few *Bivens* cases succeed. In the first twelve years following the *Bivens* decision, only 0.25% of suits against federal officials in their individual capacities resulted in judgments for the plaintiffs. *See* Perry M. Rosen, "The Bivens Constitutional Tort: An Unfulfilled Promise," 67 N.C. L. REV 337, 343-345 (1989). The rarity of successful suits should provide sufficient peace of mind to meet Judge Cabranes's concern that government officials "perform their sensitive duties with decisiveness and without potentially ruinous hesitation." (Pet. App. 70a) (Cabranes, J. concurring) (quoting *Mitchell v. Forsythe*, 472 U.S. 511, 541 (1985) (Stevens, J. concurring in the judgment)) (internal quotation marks omitted).

Nor has there been an "avalanche" of *Bivens* cases. As a former trial attorney in the Civil Division of the Department of Justice who specialized in defending *Bivens* suits observed, "[t]he paucity of victories for plaintiffs alleging deprivation of their constitutional rights demonstrates, however, more than a propensity by the general public to bring frivolous lawsuits against federal officials. It

reflects, instead, problems endemic to the *Bivens* action which have created an almost insurmountable bias against the plaintiff." Rosen, *supra*, at 344. A heightened pleading standard would add another barricade, preventing meritorious claims from being heard and further insulating "high-ranking officials" from any liability for violating clearly established constitutional rights.

Petitioners rest their argument on a single example: former Attorney General Edward Levi (Pet. Br. at 40-41). In fact, General Levi's experience demonstrates the minimal burden that *Bivens* has imposed on officials. A Westlaw search discloses only four reported decisions in *Bivens* actions naming Levi, all dismissed on the pleadings within a year of his departure from office. *See Morpurgo v. Bd. of Higher Ed. in City of New York*, 423 F. Supp. 704 (S.D.N.Y. 1976); *Cole v. Kelley*, 438 F. Supp. 129 (C.D. Cal. 1977); *Ostrer v. Aronwald*; 434 F. Supp. 379 (S.D.N.Y. 1977); *Brawer v. Levi*, 435 F. Supp. 534 (S.D.N.Y. 1977). Bennett Boskey, who represented the Attorney General in some of these actions and is petitioners' source for Levi's experience, recounts that before he became involved the Justice Department "never notified [the Attorney General] of any of these suits . . . [because] they were confident that they could get the claims dismissed in due course without bothering the Attorney General." Bennett Boskey, ed., *Some Joys of Lawyering*, at 113 (2007). In the end, all of the suits were resolved without Attorney General Levi having to testify, "even in a deposition." *Id.* at 114.

CONCLUSION

For the foregoing reasons, *amici* urge the Court to affirm the decision below.

Respectfully submitted,

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Dated: October 31, 2008

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2008

NO. 07-1015

JOHN D. ASHCROFT, FORMER ATTORNEY GENERAL OF THE UNITED STATES, AND ROBERT MUELLER, DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION,

Petitioners,

v.

JAVAID IQBAL, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

AFFIRMATION IN SUPPORT OF BRIEF FOR *AMICI CURIAE* AND MOTION FOR LEAVE TO FILE BRIEF

MICHAEL WINGER affirms:

1. I am an attorney admitted to practice in the State of New York, and a member of the Bar of this Court. I make this affirmation in support of the Brief for *Amici Curiae* Ibrahim Turkmen, Asif-Ur-Rehman Saffi, Yasser Ebrahim, Hany Ibrahim, Shakir Baloch, Akhil Sachdeva and Ashraf Ibrahim in Support of Respondent Javaid Iqbal, and the motion for leave to file the brief.

2. *Amici* are plaintiffs in an action entitled *Turkmen, et al. v. Ashcroft, et al.*, pending in the

United States District Court for the Eastern District of New York (02 CV 2307 (JG) (SMG)), asserting claims against petitioners and others similar to the claims in the instant case, and consolidated with the instant case for discovery.

3. Attached as Exhibits A through J are documents produced by the United States in discovery in these actions.

4. As originally produced, these documents were designated as containing information protected by the Privacy Act, and therefore subject to a protective order entered in the District Court. Counsel for the United States has now redacted all Privacy Act information, and has agreed that in their present form the documents are not subject to the protective order. All redactions are indicated on the exhibits.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 31, 2008.

s/ Michael Winger

Michael Winger

Exhibit A

FBI Interest Document for Yasser Ebrahim & Hany Ibrahim

(produced by the United States)

File Number **[redacted]**

Title FBI LEAD NUMBER **[redacted]**

NYC

On September 30, 2001, S/A **[redacted]** and S/A **[redacted]** were instructed by SSA Love to respond to FBI lead number **[redacted]** with FBI agents **[redacted]** and **[redacted]**. The lead involved a group of Middle Eastern Males living at **[redacted]** in Brooklyn, NY renting a mailbox and possibly sending out large quantities of money. The following individuals were arrested for violation of the Immigration and Nationality Act.

Yasser Ebrahim Fathy EBRAHIM is a native and citizen of Egypt born 07/23/72 who entered the U.S. on or about 01/21/01 as a B2 Visitor with authorization to remain in the U.S. until 07/07/01. SUBJECT was arrested as a B2 Overstay at **[redacted]** in Brooklyn, NY. SUBJECT EBRAHIM'S passport number is 626008. He was in possession of a New York DL Number 599115989.

Hany Ibrahim Fathy EBRAHIM is a native and citizen of Egypt born 02/07/76 who entered the U.S. as a B2 visitor 08/04/98 with authorization to remain in the

Exhibit A

U.S. until 02/03/99. SUBJECT was arrested as a B2 overstay at **[redacted]** in Brooklyn, NY. SUBJECT EBRAHIM'S passport number is 907355.

[redacted] is a native and citizen of Egypt born **[redacted]** who entered the U.S. 07/17/01 as a B2 visitor with authorization to remain in the U.S. until 01/16/02. SUBJECT admitted to the reporting agent and SA **[redacted]** that he was employed at the **[redacted]** in Brooklyn, NY telephone # **[redacted]**. SUBJECT stated his boss's name is **[redacted]** and that he began working there around 09/13/01. Before working at the **[redacted]** SUBJECT stated he worked at **[redacted]** in Manhattan, NY. SUBJECT told the reporting agent he worked there from 07/24 or 25/01 to 09/13 or 14/01. SUBJECT was arrested as a nonimmigrant working without INS authorization.

[redacted] is a native and citizen of Egypt born **[redacted]** who entered the U.S. 02/27/00 as a B2 visitor with authorization to remain in the U.S. until 08/26/00. SUBJECT was arrested at his place of employment at **[redacted]** in Brooklyn, NY as a B2 overstay working without INS authorization. SUBJECT was also residing at **[redacted]** entered the U.S. on or about 07/17/01 as a B2 visitor [illegible] 01/16/02. SUBJECT was arrested at his place of employment at **[redacted]** in Manhattan, NY, telephone number **[redacted]**. SUBJECT was observed by the reporting agent working, waiting on customers. SUBJECT stated he had been working there about a month. SUBJECT was arrested as a

nonimmigrant working without INS authorization. SUBJECT was also residing at **[redacted]** in Brooklyn, NY.

Also interviewed at **[redacted]** was **[redacted]** born **[redacted]** in Morocco. SUBJECT stated his Social Security Number is **[redacted]**. SUBJECT was determined to be a Lawful Permanent Resident of the U.S. through INS records checks.

One other individual is living at the apartment but was not present. Agents were told he was at **[redacted]** in Chelsea, MA 02150. SA **[redacted]** was told the individual was checking in to attending Medical School. His information is as follows. **[redacted]** country of citizenship Egypt, entered the U.S. 07/17/01 as a B2 visitor with authorization to stay until 01/15/02.

SUBJECT'S above could not provide any information relating to 09/11/01. FBI Special Agent **[redacted]** requested INS arrest those individuals in violation of Immigration Law. INS SSA **[redacted]** authorized arrest.

SUBJECTS were checked on the INS Watch List with negative results.

Investigator **[redacted]**	Date
Special Agent **[redacted]**	09/30/01

Exhibit B

FBI Interest Document for Ashraf Ibrahim

(produced by the United States)

FD-302 (Rev. 10-6-95)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 09/20/2001

Salesman, **[redacted]** TRUCK CENTER, **[redacted]**, was advised of the official identity of the interviewing agent. **[redacted]** provided the following information:

[redacted] was working on Saturday, September 15, 2001 at approximately 10:30 a.m. when three males, who appeared to be Arabs, approached him and said they were interested in purchasing a truck. The men had initially inquired about a used truck, volunteering that the truck would be used to carry water. **[redacted]**, in an attempt to find them a truck that would fit their need, asked them the size of the containers in which the water would be stored, how much the load would weigh and to whom they were going to deliver. Their answers were vague. **[redacted]** was suspicious when they could not answer his questions, but believes some of the confusion could have resulted from them trying to convert measurements from the metric system. **[redacted]** eventually learned that they would be hauling 450 containers weighing 30 pounds each. He determined they would need a large truck. **[redacted]** TRUCK CENTER is an IZUZU dealer and **[redacted]** showed them a new 14-foot IZUZU truck with a 14,000 pound capacity. The truck was listed for $30,000.

Exhibit B

It was decided that a 10-foot truck would be adequate and **[redacted]**, who had none on the lot, told them he would check on how long it would take for him to get them one. One of the men gave him a business card which was printed in English on one side and what appears to be Arabic on the reverse side. The English side read, "Watermust Egypt Co., **[redacted]**, G. Manager, **[redacted]**, **[redacted]**, Phone: **[redacted]**, Fax: **[redacted]**, Watermust Inc., **[redacted]**, Phone: **[redacted]**, Fax: **[redacted]**." Handwritten on the English side of the card is the name **[redacted]** and the telephone number **[redacted]**. A graphic of a desert oasis is pictured on both sides. **[redacted]** provided the original business card to the interviewing agent. A copy of the business card is attached to and made part of this FD-302.

[redacted] looked up the telephone number on a CD-rom yellow page directory. The number came back to ASHRAF A IBRAHIM at the same address as WATERMUST, however the business name was not listed.

[redacted] described the male who gave him the business card as approximately 45 years old, 5 feet 10 inches to 5 feel 11 inches tall, 180 to 200 pounds, with medium length wavy black hair. The second male was approximately 30 years old, 5 feet 6 inches tall, and thinner than the other two at approximately 160 pounds. He spoke English with no accent. He gave **[redacted]** his cell phone number **[redacted]** and said his name was **[redacted]**. He wore jeans and a T-shirt. The third male

did not give his name. He was approximately 45 years old and weighed 180 to 200 pounds.

[redacted] did not get a good look at the maroon colored car in which they drove away.

SUBJECT TO PROTECTIVE ORDER

Investigation on 9/18 & 9/20/01 at Philadelphia, PA

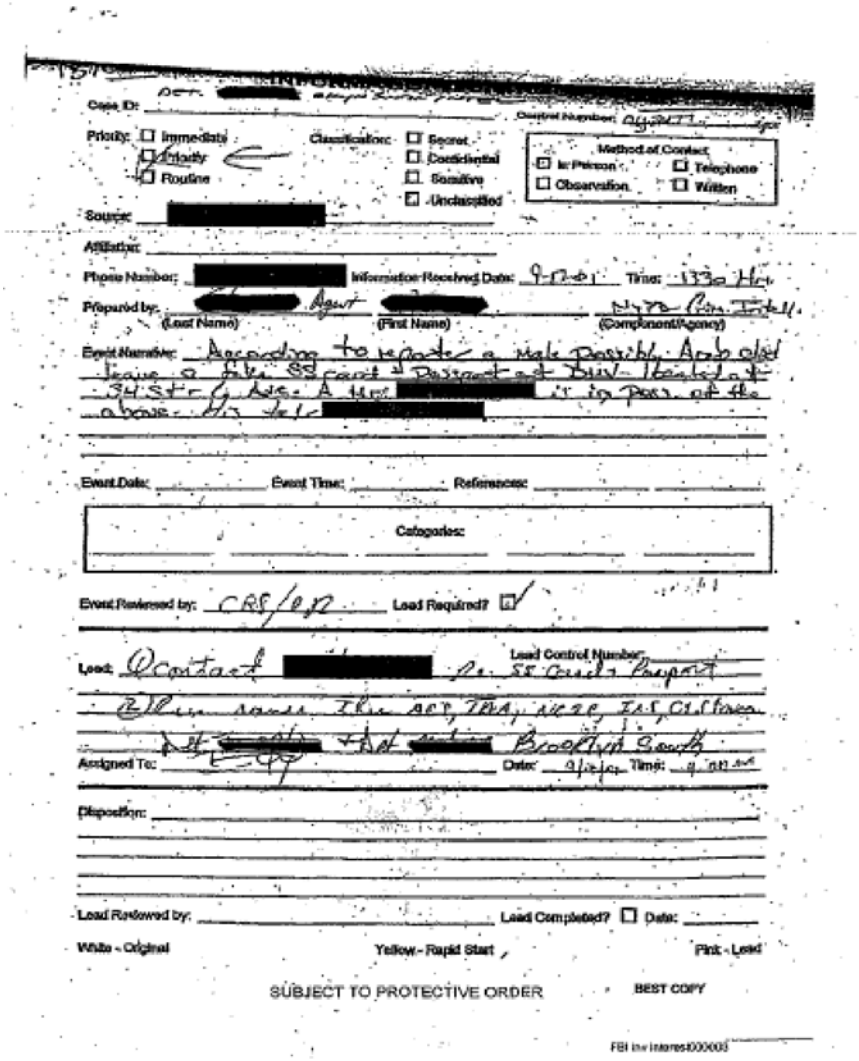
File # **[redacted]** Date dictated 9/20/01

by **[redacted]** :jlw

Exhibit C

FBI Interest Document Shakir Baloch

(produced by the United States)



Case ID: [redacted]

Priority: ☐ Immediate ☐ Priority ☐ Routine

Classification: ☐ Secret ☐ Confidential ☐ Sensitive ☐ Unclassified

Method of Contact: ☑ In Person ☐ Telephone ☐ Observation ☐ Written

Source: [redacted]

Affiliation:

Phone Number: [redacted] Information Received Date: 9-12-01 Time: 1330 Hrs.

Prepared by: [redacted] Agent [redacted] NYPD Pol. Intell.
(Last Name) (First Name) (Component/Agency)

Event Narrative: According to reports a male possibly Arab did leave a [redacted] at [redacted] Pleasant at bus. Located at 34 Str & Ave. A Mr. [redacted] in poss. of the above. [redacted]

Event Date: Event Time: Reference:

Categories:

Event Reviewed by: CAS/ejm Lead Required? ☑

Lead: Contact [redacted] Re. SS Cards Report

Lead Control Number:

Also name Flt. 587, TWA, UA 93, Jet Clothes

Assigned To: [redacted] Date: 9/12/01 Time: 9 AM

Disposition:

Lead Reviewed by: Lead Completed? ☐ Date:

White - Original Yellow - Rapid Start Pink - Lead

SUBJECT TO PROTECTIVE ORDER BEST COPY

FBI the Interest000003

Exhibit D

FBI Interest Document Akhil Sachdeva

(produced by the United States)

Department of Justice
Immigration and Naturalization Service

MEMORANDUM OF INVESTIGATION

File Number	Titlet	Control Officer
A76 022 813	SACHDEVA, Akhil	NYC

On the day of this writing, the writer and SA **[redacted]** accompanied FBI Special Agents **[redacted]** and **[redacted]** to the above-mentioned SUBJECT's addresses at 169 Port Washington Boulevard in Sands Point, New York. This was done pursuant to LIRA lead **[redacted]** in October, 2001, the Port Washington New York, Police Department was contacted by a concerned citizen who reported that he had overheard a conversation between two employees of a Getty Gas Station at **[redacted]** New York. This conversation was spoken in Arabic and English, and the citizen reported that in English, the employees had discussed flying and flight simulators. Subsequent interviews and investigation led the FBI to the SUBJECT. The SUBJECT was born on October 29, 1972 in New Delhi, India. NAILS records show that he first entered the United States on January 12, 1995, as a B1 visitor for business at Los Angeles, California. He was admitted to May 21, 1995. The SUBJECT overstayed this visa, remaining in the United States until July, 1998. He went

to Canada after being issued a Canadian landed immigrant certificate in New York, NY on July 28, 1998. The SUBJECT attempted to enter the United States from Canada on January 10, 1999 via the Rainbow Bridge in Niagara Falls, New York. The SUBJECT freely admitted his prior overstay status and he was Served with a Notice To Appear (NTA) as an inadmissible alien. He was allowed to return to Canada to await his hearing before the Immigration Judge. The Order of the Judge dated December 6, 1999 reflects that the SUBJECT was ruled inadmissible to the United States per Section 212(a)(9)(B)(I)(II) of the INA. The Order by Judge MONTANTE, JR., PHILIP reflects that the Subject 'should be allowed to withdraw his application for admission.' The SUBJECT states that the judge lifted the time ban on reentering the United States. The SUBJECT reported that in March 2000, he entered the United States from Canada at Niagara Falls, New York. He states he was on a bus, and when approached by the Immigration Inspector showed Indian passport #S-214475 expiring 9/29/04 and Landed Immigrant of Canada certificate #W916445403. The SUBJECT stated that he lied to the Inspector when questioned as to his intended stay in the United States. He stated that he was only staying in the United States for a weekend to visit some friends in New York. The SUBJECT reports that on November 15, 1999 in Brampton, Ontario, Canada he married **[redacted] [redacted]** who according to CIS records became a naturalized U.S. citizen on September 28, 1999. CLAIMS records indicate that an I-130 was filed by **[redacted]** on the SUBJECT's behalf on March 7, 2000

Exhibit D

receipt #EAC-00-113-51747. A denial notice was sent on March 1, 2001. The SUBJECT stated that he and **[redacted]** divorce was finalized in November 2001. Since May 7, 2001 to December 2001, the SUBJECT was employed as a clerk/gas station attendant at the Getty gas station **[redacted]** New York. The SUBJECT reports that his then spouse and **[redacted]** were partners in this business. The SUBJECT advised that he intermittently received an off the books salary of $450 per week for 75 hours work per week. He invested $45,000 of his own money in this business. The SUBJECT was arrested in New York, New York on July 21, 1998 for Possession Of A Forgery Device and Trademark Counterfeiting by the New York City Police Department. The SUBJECT states that he paid a $5,000 fine for these offenses. The SUBJECT states that he was involved in counterfeiting TOMMY HILFIGER jeans by putting the label on otherwise ordinary bluejeans. The SUBJECT's NYSID number is 8959977N. The SUBJECT was encountered at his residence at 6:15am and placed under arrest at 7:00am. Approval for the arrest was obtained from Section Chief **[redacted]** on December 19, 2001. The SUBJECT resided at his residence with **[redacted]** DOB: **[redacted]** and his wife who reported that they are naturalized U.S. citizens. **[redacted]** and his spouse are the owners of the house. **[redacted]** is reportedly the owner of a spice importing company. In addition to his passport and landed immigrant papers, the SUBJECT is in possession of New York driver's license #159779983 and Ontario driver's license #SOO43-01507-21029. The SUBJECT stated that he wishes to return to Canada

as soon as possible. The FBI has no further interest in the SUBJECT relative to the PENTBOMB investigation.

SUBJECT TO PROTECTIVE ORDER

Investigator	Date
SA **[redacted]**	December 20, 2001

Exhibit E

FBI Interest Document Asif-Ur-Rehman Saffi

(produced by the United States)

28 February 2002

Subject: September 11, 2001 — ASIF UR REHMAN SAFFI

ASIF UR REHMAN SAFFI, date of birth: 16/06/1956, place of birth: Lahore, Pakistan, was detained on 30/09/2001 by Agents from the United States Immigration and Naturalization Service (USINS) after he attempted to enter Canada from the United States.

SAFFI is a Pakistani national holding dual citizenship with France by virtue of his marriage to a French national- **[redacted]** SAFFI was traveling under French passport #: 974010107806, as documented by his most recent entry into the United States on 06/07/2001.

SAFFI was refused entry into Canada by Canadian Immigration Authorities on 29/09/2001. He was allegedly traveling to Canada for the purpose of visiting a friend named **[redacted]**. Upon interviewing SAFFI, Canadian Authorities were not convinced that SAFFI had legitimate reasons to visit Canada. The Canadian investigators did not believe that SAFFI and **[redacted]** knew each other very well. SAFFI was also in possession of $1,400.00 in cash.

SAFFI was denied entry into Canada and placed on the next available flight to La Guardia Airport, New York

City, whereupon he was arrested by USINS agents for violating his Visa status. SAFFI was admitted to the United States on 06/07/2001 as a Visitor under the U.S. Department of State's Visa Waiver Pilot Program. Nonetheless, SAFFI admitted to working while in the United States which violated the provisions of the Visa Waiver Pilot Program.

The New York Office of the FBI is currently investigating several of SAFFI's contacts. SAFFI's continued detention is dependent upon the results of that investigation.

2-DST
1-Paris ([**redacted**] OUT) serial 2304
059css01.nte

Case ID: [**redacted**] Serial: 2309

Exhibit F

FBI Interest Document Ibrahim Turkmen

(produced by the United States)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 10/02/2001

To: New York

From: New York
Squad C-27
Contact: SA **[redacted]**

Approved By: **[redacted]**

Drafted By: **[redacted]** :pc

Case ID #: **[redacted]**

Title: **[redacted]**
00:NY

Synopsis: Case Opening

Details: Case is predicated upon a lead arising from the World Trade Center investigation (NY control #**[redacted]**). Lead surrounded around several Turkish males living at **[redacted]** Long Beach, New York 11561.

Writer interviewed the landlord and several neighbors and identified that subject **[redacted]**, DOB **[redacted]**, SSAN **[redacted]** vacated the premise on

Exhibit F

Thursday 9/13/01. Writer was contacted by the Long Beach PD in the evening of 9/15/01 regarding the above mentioned apartment. The new tenant, **[redacted]**, DOB **[redacted]**, SSAN **[redacted]**, found documents that **[redacted]** had left behind and called the police. Upon getting consent from **[redacted]** writer searched the apartment and found a variety of photo documents, to include passports, drivers license, and Turkish birth certificates, in several different names. Also present was a lamination machine, fax machine, and computer accessories.

On 9/21/01 writer and SA **[redacted]** found and interviewed subjects **[redacted]**, DOB **[redacted]**, and **[redacted]**, DOB **[redacted]**, SSAN **[redacted]**. Both subjects were carrying false identification, were currently residing in the United States illegally, and neither was found to be credible when questioned. Both subjects were arrested by United States Immigration Service Agents, and currently await deportation.

On 9/28/01 writer was contacted by Long Beach Police Department that three Turkish males had tried to enter the apartment on **[redacted]** Street. The three individuals were **[redacted]**, DOB **[redacted]**, **[redacted]**, DOB **[redacted]**, and **[redacted]**, DOB **[redacted]**. Upon being interviewed **[redacted]** advised that he once lived with **[redacted]** at the Long Beach address listed above, and that **[redacted]** was making false identification for people from Turkey. This identification was to include false passports, NYS Drivers Licenses, bank account papers, and real estate

ownership papers. **[redacted]** admitted to helping **[redacted]** on several occasions by generating the paper work on **[redacted]** computer.

Assistant United States Attorney (AUSA) **[redacted]** Eastern District of New York, advised that he would commit to prosecuting this matter in violation of Title 18, United States Code Section 1028 (Fraud and related activity in connection with identification documents) if sufficient corroborative evidence was developed to support a federal criminal prosecution.

Exhibit G

Attorney General Daily Activity Report, Excerpted from INS Headquarters Standard Operating Procedures: Case Processing for Pentagon / Twin Towers Terrorist Investigation

(produced by the United States)

LIMITED OFFICIAL USE/LAW ENFORCEMENT SENSITIVE

INS HEADQUARTERS STANDARD OPERATING PROCEDURES: CASE PROCESSING FOR PENTAGON/TWIN TOWERS TERRORIST INVESTIGATION

Office of Field Operations
National Security Unit **September 23, 2001**

Subject to the Protective Order

* * *

Exhibit G

AG DAILY ACTIVITY REPORT

GUIDANCE

1. Attached is a copy of the Report Template. Responsibility for collating the data and finalizing the Report lies with the Headquarters Operations Center (Headquarters Coordinating Element, HCE). Responsibility for providing the necessary data is apportioned as follows:

Items 1,2	Headquarters Operations Center (based on data from the Field)
Items 3,4,5, 6,7,8,9	Headquarters Custody Review Unit (from data already collected for the Custody List)
Items 11,12	National Security Unit
Items 13,14	Headquarters Operation Center (based on Daily Regional Reports)

2. The Daily Activity Report will be collated and completed no later than 0600 each day. Until further notice, the report will be reviewed by the EAC, Ops and the Deputy Commissioner by either facsimile transmission or personally prior to transmission to the Department of Justice.

3. The completed and approved report will be sent no later than 0700 by facsimile ***and*** email as set forth below:

Exhibit G

Report due to: Janet Potter	(fax) 202-323-2863 (email) Janet. Potter @ USDOJ.gov
Susan Richmond	(email) Susan. Richmond @ USDOJ.gov

4. The ***Background*** section of the first Report will be eliminated in all future Reports.

5. The ***Notes*** section will consist of a narration of events relevant to the criminal investigation and the mission of the INS. These will be drawn from the SIR's and the reports received by the NSU. *Both the Operations Center and the National Security Unit have responsibility for providing information to the* ***Notes*** *section. Responsibility for collating the submissions lies with the Operations Center.*

6. The Commissioner said that the Attorney General uses this document to prepare for his daily briefing with the National Security Counsel and the President. Hence, all submissions in the ***Notes*** section must be succinct, verified and complete. In deciding what to include, the Commissioner said to err on the side of inclusion. The goal is to provide the AG with everything he needs to brief the NSC and the President about our activities and operations during the emergency.

7. Regions have been advised to provide the necessary information regarding Items 1 and 2 to the HQ Operations Center no later than 0500 each day until further notice.

Exhibit G

LIMITED OFFICIAL USE

TERRORISM INVESTIGATION
INS ACTIVITY REPORT
SEPTEMBER 23, 2001

	ACTIVITY	Past 24 Hours	Cumulative
1	Joint Field Interviews with FBI		330
2	Number of Aliens Taken Into Custody During Joint Field Interviews *After* Which It Is Determined There is No Nexus to the Investigation		Being Counted
3	Total in INS Proceedings		80
	a. Immigration Court Served with Charging Documents	0	42
	b. Immigration Court Not Yet Served	0	26
	c. Final Orders of Removal	0	12
4	Number of Aliens in INS Custody	10	88
5	Number of Aliens in State and Local Custody	0	2

Exhibit G

	ACTIVITY	Past 24 Hours	Cumulative
6	Number of Aliens in U.S. Marshals Service Custody	0	13
	a. Held on FBI Criminal Charges	0	0
	b. Held on INS Criminal Charges	0	4
	c. Held on Material Witness Warrants	0	8
7	Number of Custody Transfers to Secure Facilities	2	35
8	Number of Bond Hearings Scheduled	0	29
9	Number of Bond Hearings Completed	0	0
10	Total Number of Aliens Released	0	2
	a. On Bond	0	0
	b. No Terrorism Nexus (as determined by FBI)	0	2
11	Agent Support Provided by INS to the SIOC	6	6
12	Attorney Support Provided by INS to the SIOC	4	4

Exhibit G

	ACTIVITY	Past 24 Hours	Cumulative
13	Ports Closed Due to Threats	0	2
14	Bomb Threats to INS Facilities	1	32
15	**NOTES:** All ports of entry continue to operate at Threat Level 1; the INS "War Room" continues to operate 24/7; the attorney/investigator task force continues to operate 24/7 with a personnel complement of approximately 30. During the past 24 hours an event occurred that has received press attention. During a joint search warrant operation in Florence, Kentucky focused on specific individuals at a specified address, a group of Muslims who were attending a religious service in an adjoining apartment (not marked as a religious sanctuary) began to exit the building. An INS agent who was on the perimeter was surprised by this exit activity and called for back-up. Forty-eight individuals were held for questioning. Forty-four individuals were released and four were held by INS based on their status as visa overstays. At the time of the operation, neither the FBI nor the INS was aware of the religious service in the adjoining apartment and the participants were not the targets of the investigative operation.		

Exhibit G

	ACTIVITY	Past 24 Hours	Cumulative
16	**Background Information:** The INS has developed a substantial number of new leads for the FBI's investigation (a) through the joint interview process, (b) by checks of individuals on the FBI's interest/watch list through a number of our automated systems, and (c) through liaison with friendly foreign immigration services. Since September 11, INS has supported the FBI investigation into the terrorist attacks by mining INS databases for information relating to suspected hijackers, their associates and their travel and movements prior to the attacks. Over 1,000 leads have been provided to the FBI SIOC, including documentary leads from our Students/Schools database, our Arrival and Departure database and files relating to specific individuals that the FBI has identified as of interest. Of the INS's on-duty workforce of 1,829 special agents, over 850 agents have been working in support of the FBI investigation, either directly through joint investigations and lead follow-up, or indirectly through research and file review. This constitutes more than 50% of the Investigations Division workforce of the INS.		

Exhibit G

ACTIVITY	Past 24 Hours	Cumulative
Operation Safe Passage has committed 308 Border Patrol Agents to support existing Airport security operations in eight airports around the United States. INS agents, working on their own initiative or with Department of Transportation, have conducted investigations to determine whether persons with access to secure and restricted areas are present in the United States in violation of immigration law. Three arrests have been made. Meanwhile, the business of the Immigration Service has continued. Ports of Entry and Inspections facilities at our borders have remained fully operational, as have District Offices that have served the public continuously since September 12, despite a total of 32 bomb threats against INS facilities since the attack. INS has naturalized 25,000 new citizens since September 11, has conducted thousands of interviews and approved benefits to hundreds of qualifying immigrants. In addition, INS District Directors have met with Muslim leaders in various communities around the country to allay fears and commit to collaborative communication.		

Exhibit H

Significant Incident Report for Akhil Sachdeva

(produced by the United States)

SIGNIFICANT INCIDENT REPORT

FROM: NYC INV

TO: HQ HCE FAX# 202-305-2786
HQ NSU FAX# 202-514-6557
ERO CP FAX# 802-660-5100

THE ALIEN(S) LISTED BELOW WHOSE FORMS I-213 ARE ATTACHED TO THIS REPORT WERE ARRESTED AFTER HAVING BEEN ENCOUNTERED IN THE COURSE OF A FIELD INVESTIGATION.

THE FIELD INVESTIGATION WAS PREDICATED UPON RECEIPT OF A FBI WORLD TRADE CENTER (WTC) LEAD.

FBI INVESTIGATIVE INTEREST IS CURRENTLY UNDETERMINED.

ALIEN FILE MATERIAL IS BEING TRANSMITTED TO HQ NSU UNDER SEPARATE COVER.

NAME(S):	ALIEN #:
[redacted]	**[redacted]**
SACHDEVA, AKHIL	A 76 022 813

Exhibit I

Excerpts from JTTF "Special Interest List"

(produced by the United States)

JTTF SPECIAL INTEREST CASES

Name
[redacted]

A#

MW
N

JTTF
Special Interest
Y

INS Det
N

Custody
N

Custody Location
RELEASED

Investigator
Agent **[redacted]**

AUSA
[redacted]

Exhibit I

Alias

Hearing Date:

Disposition:

Summary: 10/9/01 UPDATE: SUBJECT RELEASED FROM MCC

WARRANT VACATED 10/4/01. **[redacted]**

MW WARRANT ISSUED 9/20/01 (JUDGE **[redacted]** -LA); ARRESTED IN LA; ARRIVE SDNY. HE WAS CO-INSURER ON AUTO INSURANCE POLICY W/ NAWAF AL-HAZMI (HIJACKER-AA #77 – PENTAGON). ACCOMPANIED AL-HAZMI TO A FLIGHT SCHOOL IN SAN DIEGO. ACTED AS INTERPRETER FOR AL-HAZMI AND AL-MIHDHAR SA **[redacted]** B# **[redacted]**

Exhibit I

Name
[redacted]

A#
[redacted]

MW
Y

JTTF
Special Interest
Y

INS Det
N

Custody
Y

Custody Location
SAN DIEGO

Investigator
Agent **[redacted]**

AUSA
[redacted]

Alias

Hearing Date:

Disposition:

Exhibit I

Summary: PER SA **[redacted]** 11/29/01: BEING PROSECUTED FOR INS VIOLATIONS IN THE SOUTHERN DISTRICT OF CALIFORNIA. 11/2/01 UPDATE: TO BE CHARGED WITH INS VIOLATION IN SAN DIEGO.
RULE 40 PROCEEDING 10/25/01. TO BE CHARGED WITH MARRIAGE FRAUD IN SAN DIEGO (RELEASED FROM MCC). 10/23/01 UPDATE: **[redacted]** WILL BE ARRESTED ON IMMIGRATION FRAUD CHARGE FROM SAN DIEGO WHEN **[redacted]** TESTIMONY COMPLETE.
10/17/01 UPDATE: ADMITTED ACQUAINTED WITH HIJACKERS NAWAF AL-HAZMI AND KHALID AL-MHDHAR. STATED AL-HAZMI INTRODUCED HIM TO HANI HANJOUR.
10/14/01 UPDATE: **[redacted]** CHARGED WITH FALSE STATEMENTS IN SAN DIEGO.
10/9/01 UPDATE: ASSISTING INVESTIGATORS VIA PROFFERS. PROVIDING MOSTLY CIRCUMSTANTIAL INFORMATION.

PRESENTMENT IN SAN DIEGO 9/24/01 ADJOURNED UNTIL 9/25/01 TO ARRANGE FOR ARABIC TRANSLATOR. INTERVIEWED BY FBI 9/18/01. CLOSE TIES W/ NAWAF AL-HAZMI (AA#77)

Exhibit I

AND KHALID AL-MIHDAR (AA#77)
[redacted]
SA **[redacted]** C# **[redacted]**

Name
BALOCH, SHAKIR, ALI

A#
A78513988

MW
N

JTTF
Special Interest
Y

INS Det
Y

Custody
Y

Custody Location
MDC

Investigator
Agent **[redacted]**

AUSA
[redacted]

Exhibit I

Alias: BALOCH, SHAKIR, KURD, FAISAL

Hearing Date:

Disposition:

Alias BALOCH, SHAKIR;KURD, FAISAL

Summary: 2/7/01 SUBJECT CLEARED IN ORDER TO PLACE HIM IN MDC GENERAL POPULATION AS A RESULT OF A LEGAL MOTION. AGENT **[redacted]** WILL CONTINUE TO INVESTIGATE POTENTIAL TIES TO TERRORISM WHILE SUBJECT REMAINS INCARCERATED ON CRIMINAL CHARGES.
2/5/02 UPDATE: AGENT **[redacted]** ADVISED THAT SUBJECT HAS BEEN INDICTED FOR FRAUD BUT IS STILL OF INTEREST.
RE-ASSIGNED SA **[redacted]**
Det. **[redacted]** C-11 has ticket on prosecution.
AUSA **[redacted]** **[redacted]** SA **[redacted]** ADVISED AS OF 11/19 THAT SUBJECT WILL BE PROSECUTED IN THE SDNY FOR FRAUDULENT DOCUMENTS AND INS REENTRY. MAY BE CONNECTED TO ONGOING C-7 INVESTIGATION.
10/5/01 AGENT **[redacted]** ADVISED BALOCH ARRESTED AS ENTERING ADDRESS OF **[redacted]** (**[redacted]**

Exhibit I

WHO WAS ALSO ARRESTED PURSUANT TO INFO DEVELOPED FROM FBI LEAD **[redacted]** BALOCH IN POSSESSION OF FORGED LICENSES, ETC. AGENT **[redacted]** IS PURSUING WARRANTS, CHARGING FRAUD, FOR TWO OTHER DETAINEES: **[redacted]** (**[redacted]** AND **[redacted]**) (ADVISED 10/5/01 IN MDC).
*** SA **[redacted]** SPOKE W/ **[redacted]** INS [illegible] 11/6 RE SUBJECT. WAS DEPORTED TWICE BEFORE.

Name
IQBAL, JAVAID MUHAMMAD

A#
A74889427

MW
N

JTTF
Special Interest
Y

INS Det
Y

Custody
Y

Exhibit I

Custody Location
MDC

Investigator
Agent **[redacted]**

AUSA
[redacted]

Alias
ABDUL KHALIQ; MUHAMMAD MUMTAZ

Hearing Date:

Disposition:

Summary: 1/31/02 update: ASAC Maxwell assigned to SA **[redacted]** I-44 follow-up.
01/24: LEFT MESSAGE FOR SA **[redacted]** RE WHERE IS FILE? AGM
ASSIGNED TO SA **[redacted]** C-28, **[redacted]** BUMAILED FILE TO LIRA 11/16. SA **[redacted]** SWORE COMPLAINT 11/5/01. AUSA **[redacted]** EDNY.
CHARGED W/ MAKING FALSE STATEMENTS (18 USC 1001(a)).
SUBJECT USING FRAUDULENT PAKISTANI PASSPORT
01/11 AGENT **[redacted]** INV COMPLETED, TO SEND FILE 01/14. SUBJECT BEING CHARGED CRIMINALLY BY INS.

Exhibit I

Name
SAFFI, ASIF URREHMAN

A#
A78558121

MW
N

JTTF
Special Interest
Y

INS Det
Y

Custody
Y

Custody Location
MDC

Investigator
Agent **[redacted]**

AUSA

Alias
SAFI, ASIF, SAFI, ASIF-UR-REHMAN

Hearing Date:

Disposition:

Exhibit I

Summary: 3/1/02: SUBJECT WILL BE DEPORTED TO FRANCE ON 3/5/02
1/17/02 UPDATE: FILE RETURNED TO DET. **[redacted]** I-46, FOR FOLLOWUP WITH **[redacted]** PER ASAC MAXWELL
01/15: FILE RETURNED BY DET **[redacted]** COMPLETE, N/I.
DET. **[redacted]** **[redacted]** CONTACTED I44A ON 12/5 – HE INQUIRED OF CUSTODY LOCATION; WILL INTERVIEW. REASSIGNED TO DET **[redacted]**
FILE GIVEN TO JTTF FOR RERVIEW OF ACS HITS PER ASAC MAXWELL.
REASSIGNED 10/9/01 TO SA **[redacted]**
ADDITION 10/01/01

Exhibit J

Memo from Michael Chertoff to Dale Watson re: Investigation of Indivdiuals under Detention Pursuant to "Project Lookout," with handwritten notes,

(produced by the United States)

U.S. Department of Justice

Criminal Division

Assistant Attorney General *Washington, D.C. 20530*

MEMORANDUM [DRAFT]

TO: Dale L. Watson
Assistant Director
Counterterrorism Division
Federal Bureau of Investigation

FROM: Michael Chertoff
Assistant Attorney General

SUBJECT: Investigation of Individuals under Detention Pursuant to "Project Lookout"

In the wake of the terrorist attacks that occurred on September 11, 2001, and to avert further attacks, the FBI created a "watchlist" of individuals wanted for questioning to determine whether or not they had information concerning these and any planned terrorist attacks. TheFBI continuously updates this watchlist. As of this date, approximately 160 of these individuals are in custody, primarily on immigration related charges. It is incumbent upon us to determine expeditiously which

of these individuals were involved in or may have information related to these or other planned terrorist acts. Those individuals must remain in custody because they pose an imminent danger, and a determination must be made as to whether they should be charged. As to those we determine have no connection, they should be treated as any similarly situated alien would be treated under our immigration laws. We can neither detain these individuals indefinitely without cause nor release dangerous individuals into the general population.

It is essential that the decision as to whether or not to seek continued detention is made centrally by headquarters rather than by individual field offices. The decision as to whether a particular individual has pertinent information or poses a threat must be made in the broad context of the centrally coordinated investigation of the September 11 terrorist acts as well as the context of on-going and continual threat assessments. No individual field office has complete enough information to make this determination alone. For this reason, agreed upon procedures for the handling of all detainees are necessary.

On September 25, 2001, Associate Deputy Attorney General Stuart Levy convened a meeting of representatives of the FBI, INS, the Civil Division and the Criminal Division to establish procedures to ensure the prompt determination of the need for continued detention of these individuals. The process that was agreed upon at that time requires the FBI to interview each detainee and to provide results of that interview

to FBI SIOC and to the INS attorney in the field. The FBI must also verify that the detainee is not the subject of or otherwise involved in any FBI intelligence investigation. It is essential that this determination be made both by the field office and by headquarters. The ultimate decision as to whether a particular detainee is or is not of interest to the FBI — based on an interview of the detainee and a review of pertinent intelligence investigations — is to be made by FBIHQ, not by individual field offices.

[redacted]

I am asking you to take the following steps to obtain the necessary information and facilitate this process:

- [10/2 EC covers] Each of the individuals in detention must be interviewed ~~promptly~~[on a priority basis], the relevant indices must be checked, and intelligence information and investigations reviewed, and the results of these inquiries should be supplied by the SAC or designated ASAC to FBIHQ with appropriate supporting documentation. This information should include the basis for the initial interest in the individual, the subsequent information developed, and the reason that there is no longer any interest in the individual. These interviews should be handled on a priority basis.

- [FBI call:] Each field office with detainees should designate at least one agent to promptly interview the detainees in that district. These interviews should be handled on a priority basis.

Exhibit J

[redacted]

It is important that these aliens in detention are handled appropriately to make sure that those who are of investigative interest continue to be detained and those who are not of interest are handled by INS in the manner that similarly situated aliens would be handled. Your efforts in this regard are greatly appreciated.

Exhibit A

FBI Interest Document for Yasser Ebrahim & Hany Ibrahim

(produced by the United States)

File Number **[redacted]**

Title FBI LEAD NUMBER **[redacted]**

NYC

On September 30, 2001, S/A **[redacted]** and S/A **[redacted]** were instructed by SSA Love to respond to FBI lead number **[redacted]** with FBI agents **[redacted]** and **[redacted]**. The lead involved a group of Middle Eastern Males living at **[redacted]** in Brooklyn, NY renting a mailbox and possibly sending out large quantities of money. The following individuals were arrested for violation of the Immigration and Nationality Act.

Yasser Ebrahim Fathy EBRAHIM is a native and citizen of Egypt born 07/23/72 who entered the U.S. on or about 01/21/01 as a B2 Visitor with authorization to remain in the U.S. until 07/07/01. SUBJECT was arrested as a B2 Overstay at **[redacted]** in Brooklyn, NY. SUBJECT EBRAHIM'S passport number is 626008. He was in possession of a New York DL Number 599115989.

Hany Ibrahim Fathy EBRAHIM is a native and citizen of Egypt born 02/07/76 who entered the U.S. as a B2 visitor 08/04/98 with authorization to remain in the

Exhibit A

U.S. until 02/03/99. SUBJECT was arrested as a B2 overstay at **[redacted]** in Brooklyn, NY. SUBJECT EBRAHIM'S passport number is 907355.

[redacted] is a native and citizen of Egypt born **[redacted]** who entered the U.S. 07/17/01 as a B2 visitor with authorization to remain in the U.S. until 01/16/02. SUBJECT admitted to the reporting agent and SA **[redacted]** that he was employed at the **[redacted]** in Brooklyn, NY telephone # **[redacted]**. SUBJECT stated his boss's name is **[redacted]** and that he began working there around 09/13/01. Before working at the **[redacted]** SUBJECT stated he worked at **[redacted]** in Manhattan, NY. SUBJECT told the reporting agent he worked there from 07/24 or 25/01 to 09/13 or 14/01. SUBJECT was arrested as a nonimmigrant working without INS authorization.

[redacted] is a native and citizen of Egypt born **[redacted]** who entered the U.S. 02/27/00 as a B2 visitor with authorization to remain in the U.S. until 08/26/00. SUBJECT was arrested at his place of employment at **[redacted]** in Brooklyn, NY as a B2 overstay working without INS authorization. SUBJECT was also residing at **[redacted]** entered the U.S. on or about 07/17/01 as a B2 visitor [illegible] 01/16/02. SUBJECT was arrested at his place of employment at **[redacted]** in Manhattan, NY, telephone number **[redacted]**. SUBJECT was observed by the reporting agent working, waiting on customers. SUBJECT stated he had been working there about a month. SUBJECT was arrested as a

nonimmigrant working without INS authorization. SUBJECT was also residing at **[redacted]** in Brooklyn, NY.

Also interviewed at **[redacted]** was **[redacted]** born **[redacted]** in Morocco. SUBJECT stated his Social Security Number is **[redacted]**. SUBJECT was determined to be a Lawful Permanent Resident of the U.S. through INS records checks.

One other individual is living at the apartment but was not present. Agents were told he was at **[redacted]** in Chelsea, MA 02150. SA **[redacted]** was told the individual was checking in to attending Medical School. His information is as follows. **[redacted]** country of citizenship Egypt, entered the U.S. 07/17/01 as a B2 visitor with authorization to stay until 01/15/02.

SUBJECT'S above could not provide any information relating to 09/11/01. FBI Special Agent **[redacted]** requested INS arrest those individuals in violation of Immigration Law. INS SSA **[redacted]** authorized arrest.

SUBJECTS were checked on the INS Watch List with negative results.

Investigator **[redacted]**	Date
Special Agent **[redacted]**	09/30/01

Exhibit B

FBI Interest Document for Ashraf Ibrahim

(produced by the United States)

FD-302 (Rev. 10-6-95)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 09/20/2001

Salesman, **[redacted]** TRUCK CENTER, **[redacted]**, was advised of the official identity of the interviewing agent. **[redacted]** provided the following information:

[redacted] was working on Saturday, September 15, 2001 at approximately 10:30 a.m. when three males, who appeared to be Arabs, approached him and said they were interested in purchasing a truck. The men had initially inquired about a used truck, volunteering that the truck would be used to carry water. **[redacted]**, in an attempt to find them a truck that would fit their need, asked them the size of the containers in which the water would be stored, how much the load would weigh and to whom they were going to deliver. Their answers were vague. **[redacted]** was suspicious when they could not answer his questions, but believes some of the confusion could have resulted from them trying to convert measurements from the metric system. **[redacted]** eventually learned that they would be hauling 450 containers weighing 30 pounds each. He determined they would need a large truck. **[redacted]** TRUCK CENTER is an IZUZU dealer and **[redacted]** showed them a new 14-foot IZUZU truck with a 14,000 pound capacity. The truck was listed for $30,000.

Exhibit B

It was decided that a 10-foot truck would be adequate and **[redacted]**, who had none on the lot, told them he would check on how long it would take for him to get them one. One of the men gave him a business card which was printed in English on one side and what appears to be Arabic on the reverse side. The English side read, "Watermust Egypt Co., **[redacted]**, G. Manager, **[redacted]**, **[redacted]**, Phone: **[redacted]**, Fax: **[redacted]**, Watermust Inc., **[redacted]**, Phone: **[redacted]**, Fax: **[redacted]**." Handwritten on the English side of the card is the name **[redacted]** and the telephone number **[redacted]**. A graphic of a desert oasis is pictured on both sides. **[redacted]** provided the original business card to the interviewing agent. A copy of the business card is attached to and made part of this FD-302.

[redacted] looked up the telephone number on a CD-rom yellow page directory. The number came back to ASHRAF A IBRAHIM at the same address as WATERMUST, however the business name was not listed.

[redacted] described the male who gave him the business card as approximately 45 years old, 5 feet 10 inches to 5 feel 11 inches tall, 180 to 200 pounds, with medium length wavy black hair. The second male was approximately 30 years old, 5 feet 6 inches tall, and thinner than the other two at approximately 160 pounds. He spoke English with no accent. He gave **[redacted]** his cell phone number **[redacted]** and said his name was **[redacted]**. He wore jeans and a T-shirt. The third male

did not give his name. He was approximately 45 years old and weighed 180 to 200 pounds.

[redacted] did not get a good look at the maroon colored car in which they drove away.

SUBJECT TO PROTECTIVE ORDER

Investigation on 9/18 & 9/20/01 at Philadelphia, PA

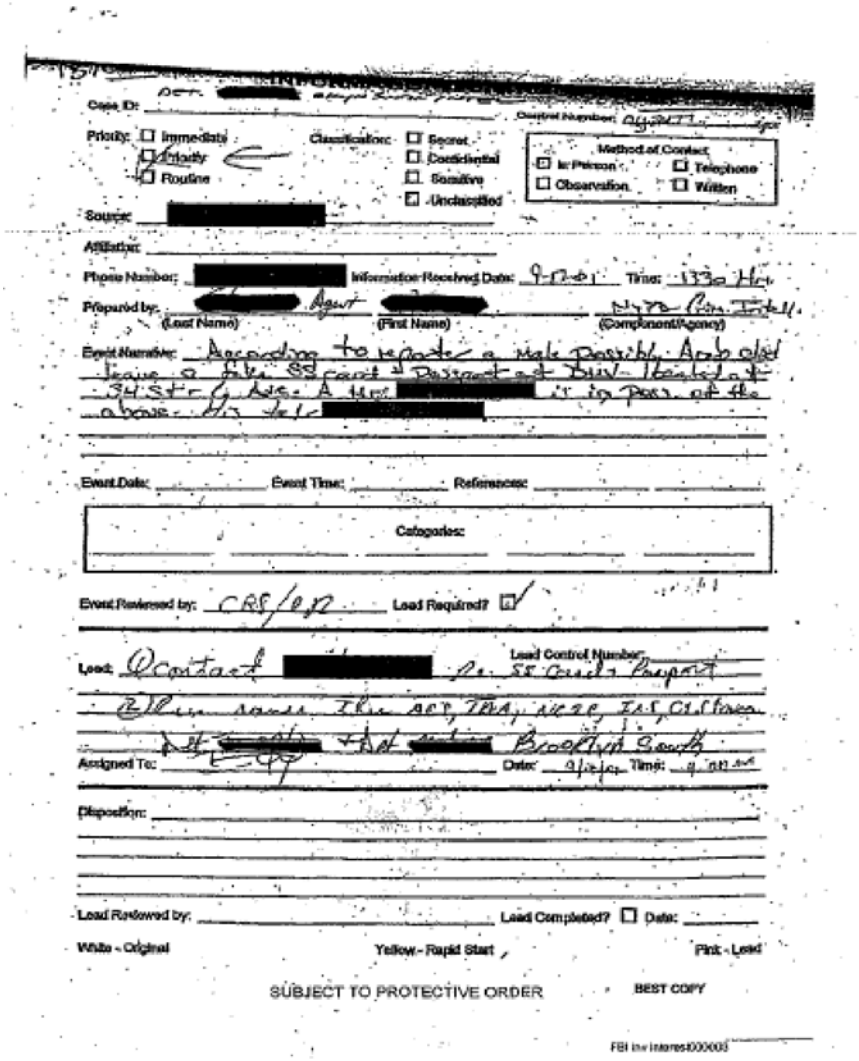
File # **[redacted]** Date dictated 9/20/01

by **[redacted]** :jlw

Exhibit C

FBI Interest Document Shakir Baloch

(produced by the United States)



Case ID: [redacted]

Priority: ☐ Immediate ☐ Priority ☐ Routine

Classification: ☐ Secret ☐ Confidential ☐ Sensitive ☐ Unclassified

Method of Contact: ☑ In Person ☐ Telephone ☐ Observation ☐ Written

Source: [redacted]

Affiliation:

Phone Number: [redacted] Information Received Date: 9-12-01 Time: 1330 Hrs.

Prepared by: [redacted] Agent [redacted] NYPD Pol. Intell.
(Last Name) (First Name) (Component/Agency)

Event Narrative: According to reports a male possibly Arab did leave a [redacted] at [redacted] Pleasant at bus. Located at 34 Str & Ave. A Mr. [redacted] in poss. of the above. [redacted]

Event Date: Event Time: Reference:

Categories:

Event Reviewed by: CAS/ejm Lead Required? ☑

Lead: Contact [redacted] Re. SS Cards Report

Lead Control Number:

Also name Flt. 587, TWA, UA 93, Jet Clothes

Assigned To: [redacted] Date: 9/12/01 Time: 9 AM

Disposition:

Lead Reviewed by: Lead Completed? ☐ Date:

White - Original Yellow - Rapid Start Pink - Lead

SUBJECT TO PROTECTIVE ORDER BEST COPY

FBI the Interest000003

Exhibit D

FBI Interest Document Akhil Sachdeva

(produced by the United States)

Department of Justice
Immigration and Naturalization Service

MEMORANDUM OF INVESTIGATION

File Number	Titlet	Control Officer
A76 022 813	SACHDEVA, Akhil	NYC

On the day of this writing, the writer and SA **[redacted]** accompanied FBI Special Agents **[redacted]** and **[redacted]** to the above-mentioned SUBJECT's addresses at 169 Port Washington Boulevard in Sands Point, New York. This was done pursuant to LIRA lead **[redacted]** in October, 2001, the Port Washington New York, Police Department was contacted by a concerned citizen who reported that he had overheard a conversation between two employees of a Getty Gas Station at **[redacted]** New York. This conversation was spoken in Arabic and English, and the citizen reported that in English, the employees had discussed flying and flight simulators. Subsequent interviews and investigation led the FBI to the SUBJECT. The SUBJECT was born on October 29, 1972 in New Delhi, India. NAILS records show that he first entered the United States on January 12, 1995, as a B1 visitor for business at Los Angeles, California. He was admitted to May 21, 1995. The SUBJECT overstayed this visa, remaining in the United States until July, 1998. He went

to Canada after being issued a Canadian landed immigrant certificate in New York, NY on July 28, 1998. The SUBJECT attempted to enter the United States from Canada on January 10, 1999 via the Rainbow Bridge in Niagara Falls, New York. The SUBJECT freely admitted his prior overstay status and he was Served with a Notice To Appear (NTA) as an inadmissible alien. He was allowed to return to Canada to await his hearing before the Immigration Judge. The Order of the Judge dated December 6, 1999 reflects that the SUBJECT was ruled inadmissible to the United States per Section 212(a)(9)(B)(I)(II) of the INA. The Order by Judge MONTANTE, JR., PHILIP reflects that the Subject 'should be allowed to withdraw his application for admission.' The SUBJECT states that the judge lifted the time ban on reentering the United States. The SUBJECT reported that in March 2000, he entered the United States from Canada at Niagara Falls, New York. He states he was on a bus, and when approached by the Immigration Inspector showed Indian passport #S-214475 expiring 9/29/04 and Landed Immigrant of Canada certificate #W916445403. The SUBJECT stated that he lied to the Inspector when questioned as to his intended stay in the United States. He stated that he was only staying in the United States for a weekend to visit some friends in New York. The SUBJECT reports that on November 15, 1999 in Brampton, Ontario, Canada he married **[redacted] [redacted]** who according to CIS records became a naturalized U.S. citizen on September 28, 1999. CLAIMS records indicate that an I-130 was filed by **[redacted]** on the SUBJECT's behalf on March 7, 2000

Exhibit D

receipt #EAC-00-113-51747. A denial notice was sent on March 1, 2001. The SUBJECT stated that he and **[redacted]** divorce was finalized in November 2001. Since May 7, 2001 to December 2001, the SUBJECT was employed as a clerk/gas station attendant at the Getty gas station **[redacted]** New York. The SUBJECT reports that his then spouse and **[redacted]** were partners in this business. The SUBJECT advised that he intermittently received an off the books salary of $450 per week for 75 hours work per week. He invested $45,000 of his own money in this business. The SUBJECT was arrested in New York, New York on July 21, 1998 for Possession Of A Forgery Device and Trademark Counterfeiting by the New York City Police Department. The SUBJECT states that he paid a $5,000 fine for these offenses. The SUBJECT states that he was involved in counterfeiting TOMMY HILFIGER jeans by putting the label on otherwise ordinary bluejeans. The SUBJECT's NYSID number is 8959977N. The SUBJECT was encountered at his residence at 6:15am and placed under arrest at 7:00am. Approval for the arrest was obtained from Section Chief **[redacted]** on December 19, 2001. The SUBJECT resided at his residence with **[redacted]** DOB: **[redacted]** and his wife who reported that they are naturalized U.S. citizens. **[redacted]** and his spouse are the owners of the house. **[redacted]** is reportedly the owner of a spice importing company. In addition to his passport and landed immigrant papers, the SUBJECT is in possession of New York driver's license #159779983 and Ontario driver's license #SOO43-01507-21029. The SUBJECT stated that he wishes to return to Canada

as soon as possible. The FBI has no further interest in the SUBJECT relative to the PENTBOMB investigation.

SUBJECT TO PROTECTIVE ORDER

Investigator	Date
SA **[redacted]**	December 20, 2001

Exhibit E

FBI Interest Document Asif-Ur-Rehman Saffi

(produced by the United States)

28 February 2002

Subject: September 11, 2001 — ASIF UR REHMAN SAFFI

ASIF UR REHMAN SAFFI, date of birth: 16/06/1956, place of birth: Lahore, Pakistan, was detained on 30/09/2001 by Agents from the United States Immigration and Naturalization Service (USINS) after he attempted to enter Canada from the United States.

SAFFI is a Pakistani national holding dual citizenship with France by virtue of his marriage to a French national- **[redacted]** SAFFI was traveling under French passport #: 974010107806, as documented by his most recent entry into the United States on 06/07/2001.

SAFFI was refused entry into Canada by Canadian Immigration Authorities on 29/09/2001. He was allegedly traveling to Canada for the purpose of visiting a friend named **[redacted]**. Upon interviewing SAFFI, Canadian Authorities were not convinced that SAFFI had legitimate reasons to visit Canada. The Canadian investigators did not believe that SAFFI and **[redacted]** knew each other very well. SAFFI was also in possession of $1,400.00 in cash.

SAFFI was denied entry into Canada and placed on the next available flight to La Guardia Airport, New York

City, whereupon he was arrested by USINS agents for violating his Visa status. SAFFI was admitted to the United States on 06/07/2001 as a Visitor under the U.S. Department of State's Visa Waiver Pilot Program. Nonetheless, SAFFI admitted to working while in the United States which violated the provisions of the Visa Waiver Pilot Program.

The New York Office of the FBI is currently investigating several of SAFFI's contacts. SAFFI's continued detention is dependent upon the results of that investigation.

2-DST
1-Paris ([**redacted**] OUT) serial 2304
059css01.nte

Case ID: [**redacted**] Serial: 2309

Exhibit F

FBI Interest Document Ibrahim Turkmen

(produced by the United States)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 10/02/2001

To: New York

From: New York
Squad C-27
Contact: SA **[redacted]**

Approved By: **[redacted]**

Drafted By: **[redacted]** :pc

Case ID #: **[redacted]**

Title: **[redacted]**
00:NY

Synopsis: Case Opening

Details: Case is predicated upon a lead arising from the World Trade Center investigation (NY control #**[redacted]**). Lead surrounded around several Turkish males living at **[redacted]** Long Beach, New York 11561.

Writer interviewed the landlord and several neighbors and identified that subject **[redacted]**, DOB **[redacted]**, SSAN **[redacted]** vacated the premise on

Exhibit F

Thursday 9/13/01. Writer was contacted by the Long Beach PD in the evening of 9/15/01 regarding the above mentioned apartment. The new tenant, **[redacted]**, DOB **[redacted]**, SSAN **[redacted]**, found documents that **[redacted]** had left behind and called the police. Upon getting consent from **[redacted]** writer searched the apartment and found a variety of photo documents, to include passports, drivers license, and Turkish birth certificates, in several different names. Also present was a lamination machine, fax machine, and computer accessories.

On 9/21/01 writer and SA **[redacted]** found and interviewed subjects **[redacted]**, DOB **[redacted]**, and **[redacted]**, DOB **[redacted]**, SSAN **[redacted]**. Both subjects were carrying false identification, were currently residing in the United States illegally, and neither was found to be credible when questioned. Both subjects were arrested by United States Immigration Service Agents, and currently await deportation.

On 9/28/01 writer was contacted by Long Beach Police Department that three Turkish males had tried to enter the apartment on **[redacted]** Street. The three individuals were **[redacted]**, DOB **[redacted]**, **[redacted]**, DOB **[redacted]**, and **[redacted]**, DOB **[redacted]**. Upon being interviewed **[redacted]** advised that he once lived with **[redacted]** at the Long Beach address listed above, and that **[redacted]** was making false identification for people from Turkey. This identification was to include false passports, NYS Drivers Licenses, bank account papers, and real estate

ownership papers. **[redacted]** admitted to helping **[redacted]** on several occasions by generating the paper work on **[redacted]** computer.

Assistant United States Attorney (AUSA) **[redacted]** Eastern District of New York, advised that he would commit to prosecuting this matter in violation of Title 18, United States Code Section 1028 (Fraud and related activity in connection with identification documents) if sufficient corroborative evidence was developed to support a federal criminal prosecution.

Exhibit G

Attorney General Daily Activity Report, Excerpted from INS Headquarters Standard Operating Procedures: Case Processing for Pentagon / Twin Towers Terrorist Investigation

(produced by the United States)

LIMITED OFFICIAL USE/LAW ENFORCEMENT SENSITIVE

INS HEADQUARTERS STANDARD OPERATING PROCEDURES: CASE PROCESSING FOR PENTAGON/TWIN TOWERS TERRORIST INVESTIGATION

Office of Field Operations
National Security Unit **September 23, 2001**

Subject to the Protective Order

* * *

Exhibit G

AG DAILY ACTIVITY REPORT

GUIDANCE

1. Attached is a copy of the Report Template. Responsibility for collating the data and finalizing the Report lies with the Headquarters Operations Center (Headquarters Coordinating Element, HCE). Responsibility for providing the necessary data is apportioned as follows:

Items 1,2	Headquarters Operations Center (based on data from the Field)
Items 3,4,5, 6,7,8,9	Headquarters Custody Review Unit (from data already collected for the Custody List)
Items 11,12	National Security Unit
Items 13,14	Headquarters Operation Center (based on Daily Regional Reports)

2. The Daily Activity Report will be collated and completed no later than 0600 each day. Until further notice, the report will be reviewed by the EAC, Ops and the Deputy Commissioner by either facsimile transmission or personally prior to transmission to the Department of Justice.

3. The completed and approved report will be sent no later than 0700 by facsimile ***and*** email as set forth below:

Exhibit G

Report due to: Janet Potter	(fax) 202-323-2863 (email) Janet. Potter @ USDOJ.gov
Susan Richmond	(email) Susan. Richmond @ USDOJ.gov

4. The ***Background*** section of the first Report will be eliminated in all future Reports.

5. The ***Notes*** section will consist of a narration of events relevant to the criminal investigation and the mission of the INS. These will be drawn from the SIR's and the reports received by the NSU. *Both the Operations Center and the National Security Unit have responsibility for providing information to the* ***Notes*** *section. Responsibility for collating the submissions lies with the Operations Center.*

6. The Commissioner said that the Attorney General uses this document to prepare for his daily briefing with the National Security Counsel and the President. Hence, all submissions in the ***Notes*** section must be succinct, verified and complete. In deciding what to include, the Commissioner said to err on the side of inclusion. The goal is to provide the AG with everything he needs to brief the NSC and the President about our activities and operations during the emergency.

7. Regions have been advised to provide the necessary information regarding Items 1 and 2 to the HQ Operations Center no later than 0500 each day until further notice.

Exhibit G

LIMITED OFFICIAL USE

TERRORISM INVESTIGATION
INS ACTIVITY REPORT
SEPTEMBER 23, 2001

	ACTIVITY	Past 24 Hours	Cumulative
1	Joint Field Interviews with FBI		330
2	Number of Aliens Taken Into Custody During Joint Field Interviews *After* Which It Is Determined There is No Nexus to the Investigation		Being Counted
3	Total in INS Proceedings		80
	a. Immigration Court Served with Charging Documents	0	42
	b. Immigration Court Not Yet Served	0	26
	c. Final Orders of Removal	0	12
4	Number of Aliens in INS Custody	10	88
5	Number of Aliens in State and Local Custody	0	2

Exhibit G

	ACTIVITY	Past 24 Hours	Cumulative
6	Number of Aliens in U.S. Marshals Service Custody	0	13
	a. Held on FBI Criminal Charges	0	0
	b. Held on INS Criminal Charges	0	4
	c. Held on Material Witness Warrants	0	8
7	Number of Custody Transfers to Secure Facilities	2	35
8	Number of Bond Hearings Scheduled	0	29
9	Number of Bond Hearings Completed	0	0
10	Total Number of Aliens Released	0	2
	a. On Bond	0	0
	b. No Terrorism Nexus (as determined by FBI)	0	2
11	Agent Support Provided by INS to the SIOC	6	6
12	Attorney Support Provided by INS to the SIOC	4	4

Exhibit G

	ACTIVITY	Past 24 Hours	Cumulative
13	Ports Closed Due to Threats	0	2
14	Bomb Threats to INS Facilities	1	32
15	**NOTES:** All ports of entry continue to operate at Threat Level 1; the INS "War Room" continues to operate 24/7; the attorney/investigator task force continues to operate 24/7 with a personnel complement of approximately 30. During the past 24 hours an event occurred that has received press attention. During a joint search warrant operation in Florence, Kentucky focused on specific individuals at a specified address, a group of Muslims who were attending a religious service in an adjoining apartment (not marked as a religious sanctuary) began to exit the building. An INS agent who was on the perimeter was surprised by this exit activity and called for back-up. Forty-eight individuals were held for questioning. Forty-four individuals were released and four were held by INS based on their status as visa overstays. At the time of the operation, neither the FBI nor the INS was aware of the religious service in the adjoining apartment and the participants were not the targets of the investigative operation.		

Exhibit G

	ACTIVITY	Past 24 Hours	Cumulative
16	**Background Information:** The INS has developed a substantial number of new leads for the FBI's investigation (a) through the joint interview process, (b) by checks of individuals on the FBI's interest/watch list through a number of our automated systems, and (c) through liaison with friendly foreign immigration services. Since September 11, INS has supported the FBI investigation into the terrorist attacks by mining INS databases for information relating to suspected hijackers, their associates and their travel and movements prior to the attacks. Over 1,000 leads have been provided to the FBI SIOC, including documentary leads from our Students/Schools database, our Arrival and Departure database and files relating to specific individuals that the FBI has identified as of interest. Of the INS's on-duty workforce of 1,829 special agents, over 850 agents have been working in support of the FBI investigation, either directly through joint investigations and lead follow-up, or indirectly through research and file review. This constitutes more than 50% of the Investigations Division workforce of the INS.		

Exhibit G

ACTIVITY	Past 24 Hours	Cumulative
Operation Safe Passage has committed 308 Border Patrol Agents to support existing Airport security operations in eight airports around the United States. INS agents, working on their own initiative or with Department of Transportation, have conducted investigations to determine whether persons with access to secure and restricted areas are present in the United States in violation of immigration law. Three arrests have been made. Meanwhile, the business of the Immigration Service has continued. Ports of Entry and Inspections facilities at our borders have remained fully operational, as have District Offices that have served the public continuously since September 12, despite a total of 32 bomb threats against INS facilities since the attack. INS has naturalized 25,000 new citizens since September 11, has conducted thousands of interviews and approved benefits to hundreds of qualifying immigrants. In addition, INS District Directors have met with Muslim leaders in various communities around the country to allay fears and commit to collaborative communication.		

Exhibit H

Significant Incident Report for Akhil Sachdeva

(produced by the United States)

SIGNIFICANT INCIDENT REPORT

FROM: NYC INV

TO: HQ HCE FAX# 202-305-2786
HQ NSU FAX# 202-514-6557
ERO CP FAX# 802-660-5100

THE ALIEN(S) LISTED BELOW WHOSE FORMS I-213 ARE ATTACHED TO THIS REPORT WERE ARRESTED AFTER HAVING BEEN ENCOUNTERED IN THE COURSE OF A FIELD INVESTIGATION.

THE FIELD INVESTIGATION WAS PREDICATED UPON RECEIPT OF A FBI WORLD TRADE CENTER (WTC) LEAD.

FBI INVESTIGATIVE INTEREST IS CURRENTLY UNDETERMINED.

ALIEN FILE MATERIAL IS BEING TRANSMITTED TO HQ NSU UNDER SEPARATE COVER.

NAME(S):	ALIEN #:
[redacted]	**[redacted]**
SACHDEVA, AKHIL	A 76 022 813

Exhibit I

Excerpts from JTTF "Special Interest List"

(produced by the United States)

JTTF SPECIAL INTEREST CASES

Name
[redacted]

A#

MW
N

JTTF
Special Interest
Y

INS Det
N

Custody
N

Custody Location
RELEASED

Investigator
Agent **[redacted]**

AUSA
[redacted]

Exhibit I

Alias

Hearing Date:

Disposition:

Summary: 10/9/01 UPDATE: SUBJECT RELEASED FROM MCC

WARRANT VACATED 10/4/01. **[redacted]**

MW WARRANT ISSUED 9/20/01 (JUDGE **[redacted]** -LA); ARRESTED IN LA; ARRIVE SDNY. HE WAS CO-INSURER ON AUTO INSURANCE POLICY W/ NAWAF AL-HAZMI (HIJACKER-AA #77 – PENTAGON). ACCOMPANIED AL-HAZMI TO A FLIGHT SCHOOL IN SAN DIEGO. ACTED AS INTERPRETER FOR AL-HAZMI AND AL-MIHDHAR SA **[redacted]** B# **[redacted]**

Exhibit I

Name
[redacted]

A#
[redacted]

MW
Y

JTTF
Special Interest
Y

INS Det
N

Custody
Y

Custody Location
SAN DIEGO

Investigator
Agent **[redacted]**

AUSA
[redacted]

Alias

Hearing Date:

Disposition:

Exhibit I

Summary: PER SA **[redacted]** 11/29/01: BEING PROSECUTED FOR INS VIOLATIONS IN THE SOUTHERN DISTRICT OF CALIFORNIA. 11/2/01 UPDATE: TO BE CHARGED WITH INS VIOLATION IN SAN DIEGO.
RULE 40 PROCEEDING 10/25/01. TO BE CHARGED WITH MARRIAGE FRAUD IN SAN DIEGO (RELEASED FROM MCC). 10/23/01 UPDATE: **[redacted]** WILL BE ARRESTED ON IMMIGRATION FRAUD CHARGE FROM SAN DIEGO WHEN **[redacted]** TESTIMONY COMPLETE.
10/17/01 UPDATE: ADMITTED ACQUAINTED WITH HIJACKERS NAWAF AL-HAZMI AND KHALID AL-MHDHAR. STATED AL-HAZMI INTRODUCED HIM TO HANI HANJOUR.
10/14/01 UPDATE: **[redacted]** CHARGED WITH FALSE STATEMENTS IN SAN DIEGO.
10/9/01 UPDATE: ASSISTING INVESTIGATORS VIA PROFFERS. PROVIDING MOSTLY CIRCUMSTANTIAL INFORMATION.

PRESENTMENT IN SAN DIEGO 9/24/01 ADJOURNED UNTIL 9/25/01 TO ARRANGE FOR ARABIC TRANSLATOR. INTERVIEWED BY FBI 9/18/01. CLOSE TIES W/ NAWAF AL-HAZMI (AA#77)

Exhibit I

AND KHALID AL-MIHDAR (AA#77)
[redacted]
SA **[redacted]** C# **[redacted]**

Name
BALOCH, SHAKIR, ALI

A#
A78513988

MW
N

JTTF
Special Interest
Y

INS Det
Y

Custody
Y

Custody Location
MDC

Investigator
Agent **[redacted]**

AUSA
[redacted]

Exhibit I

Alias: BALOCH, SHAKIR, KURD, FAISAL

Hearing Date:

Disposition:

Alias BALOCH, SHAKIR;KURD, FAISAL

Summary: 2/7/01 SUBJECT CLEARED IN ORDER TO PLACE HIM IN MDC GENERAL POPULATION AS A RESULT OF A LEGAL MOTION. AGENT **[redacted]** WILL CONTINUE TO INVESTIGATE POTENTIAL TIES TO TERRORISM WHILE SUBJECT REMAINS INCARCERATED ON CRIMINAL CHARGES.
2/5/02 UPDATE: AGENT **[redacted]** ADVISED THAT SUBJECT HAS BEEN INDICTED FOR FRAUD BUT IS STILL OF INTEREST.
RE-ASSIGNED SA **[redacted]**
Det. **[redacted]** C-11 has ticket on prosecution.
AUSA **[redacted]** **[redacted]** SA **[redacted]** ADVISED AS OF 11/19 THAT SUBJECT WILL BE PROSECUTED IN THE SDNY FOR FRAUDULENT DOCUMENTS AND INS REENTRY. MAY BE CONNECTED TO ONGOING C-7 INVESTIGATION.
10/5/01 AGENT **[redacted]** ADVISED BALOCH ARRESTED AS ENTERING ADDRESS OF **[redacted]** (**[redacted]**

Exhibit I

WHO WAS ALSO ARRESTED PURSUANT TO INFO DEVELOPED FROM FBI LEAD **[redacted]** BALOCH IN POSSESSION OF FORGED LICENSES, ETC. AGENT **[redacted]** IS PURSUING WARRANTS, CHARGING FRAUD, FOR TWO OTHER DETAINEES: **[redacted]** (**[redacted]** AND **[redacted]**) (ADVISED 10/5/01 IN MDC).
*** SA **[redacted]** SPOKE W/ **[redacted]** INS [illegible] 11/6 RE SUBJECT. WAS DEPORTED TWICE BEFORE.

Name
IQBAL, JAVAID MUHAMMAD

A#
A74889427

MW
N

JTTF
Special Interest
Y

INS Det
Y

Custody
Y

Exhibit I

Custody Location
MDC

Investigator
Agent **[redacted]**

AUSA
[redacted]

Alias
ABDUL KHALIQ; MUHAMMAD MUMTAZ

Hearing Date:

Disposition:

Summary: 1/31/02 update: ASAC Maxwell assigned to SA **[redacted]** I-44 follow-up.
01/24: LEFT MESSAGE FOR SA **[redacted]** RE WHERE IS FILE? AGM
ASSIGNED TO SA **[redacted]** C-28, **[redacted]** BUMAILED FILE TO LIRA 11/16. SA **[redacted]** SWORE COMPLAINT 11/5/01. AUSA **[redacted]** EDNY.
CHARGED W/ MAKING FALSE STATEMENTS (18 USC 1001(a)).
SUBJECT USING FRAUDULENT PAKISTANI PASSPORT
01/11 AGENT **[redacted]** INV COMPLETED, TO SEND FILE 01/14. SUBJECT BEING CHARGED CRIMINALLY BY INS.

Exhibit I

Name
SAFFI, ASIF URREHMAN

A#
A78558121

MW
N

JTTF
Special Interest
Y

INS Det
Y

Custody
Y

Custody Location
MDC

Investigator
Agent **[redacted]**

AUSA

Alias
SAFI, ASIF, SAFI, ASIF-UR-REHMAN

Hearing Date:

Disposition:

Exhibit I

Summary: 3/1/02: SUBJECT WILL BE DEPORTED TO FRANCE ON 3/5/02
1/17/02 UPDATE: FILE RETURNED TO DET. **[redacted]** I-46, FOR FOLLOWUP WITH **[redacted]** PER ASAC MAXWELL
01/15: FILE RETURNED BY DET **[redacted]** COMPLETE, N/I.
DET. **[redacted]** **[redacted]** CONTACTED I44A ON 12/5 – HE INQUIRED OF CUSTODY LOCATION; WILL INTERVIEW. REASSIGNED TO DET **[redacted]**
FILE GIVEN TO JTTF FOR RERVIEW OF ACS HITS PER ASAC MAXWELL.
REASSIGNED 10/9/01 TO SA **[redacted]**
ADDITION 10/01/01

Exhibit J

Memo from Michael Chertoff to Dale Watson re: Investigation of Indivdiuals under Detention Pursuant to "Project Lookout," with handwritten notes,

(produced by the United States)

U.S. Department of Justice

Criminal Division

Assistant Attorney General *Washington, D.C. 20530*

MEMORANDUM [DRAFT]

TO: Dale L. Watson
Assistant Director
Counterterrorism Division
Federal Bureau of Investigation

FROM: Michael Chertoff
Assistant Attorney General

SUBJECT: Investigation of Individuals under Detention Pursuant to "Project Lookout"

In the wake of the terrorist attacks that occurred on September 11, 2001, and to avert further attacks, the FBI created a "watchlist" of individuals wanted for questioning to determine whether or not they had information concerning these and any planned terrorist attacks. TheFBI continuously updates this watchlist. As of this date, approximately 160 of these individuals are in custody, primarily on immigration related charges. It is incumbent upon us to determine expeditiously which

of these individuals were involved in or may have information related to these or other planned terrorist acts. Those individuals must remain in custody because they pose an imminent danger, and a determination must be made as to whether they should be charged. As to those we determine have no connection, they should be treated as any similarly situated alien would be treated under our immigration laws. We can neither detain these individuals indefinitely without cause nor release dangerous individuals into the general population.

It is essential that the decision as to whether or not to seek continued detention is made centrally by headquarters rather than by individual field offices. The decision as to whether a particular individual has pertinent information or poses a threat must be made in the broad context of the centrally coordinated investigation of the September 11 terrorist acts as well as the context of on-going and continual threat assessments. No individual field office has complete enough information to make this determination alone. For this reason, agreed upon procedures for the handling of all detainees are necessary.

On September 25, 2001, Associate Deputy Attorney General Stuart Levy convened a meeting of representatives of the FBI, INS, the Civil Division and the Criminal Division to establish procedures to ensure the prompt determination of the need for continued detention of these individuals. The process that was agreed upon at that time requires the FBI to interview each detainee and to provide results of that interview

to FBI SIOC and to the INS attorney in the field. The FBI must also verify that the detainee is not the subject of or otherwise involved in any FBI intelligence investigation. It is essential that this determination be made both by the field office and by headquarters. The ultimate decision as to whether a particular detainee is or is not of interest to the FBI — based on an interview of the detainee and a review of pertinent intelligence investigations — is to be made by FBIHQ, not by individual field offices.

[redacted]

I am asking you to take the following steps to obtain the necessary information and facilitate this process:

- [10/2 EC covers] Each of the individuals in detention must be interviewed ~~promptly~~[on a priority basis], the relevant indices must be checked, and intelligence information and investigations reviewed, and the results of these inquiries should be supplied by the SAC or designated ASAC to FBIHQ with appropriate supporting documentation. This information should include the basis for the initial interest in the individual, the subsequent information developed, and the reason that there is no longer any interest in the individual. These interviews should be handled on a priority basis.

- [FBI call:] Each field office with detainees should designate at least one agent to promptly interview the detainees in that district. These interviews should be handled on a priority basis.

Exhibit J

[redacted]

It is important that these aliens in detention are handled appropriately to make sure that those who are of investigative interest continue to be detained and those who are not of interest are handled by INS in the manner that similarly situated aliens would be handled. Your efforts in this regard are greatly appreciated.